

In the House of Representatives, U. S.,

October 16, 2004.

Resolved, That the bill from the Senate (S. 2845) entitled “An Act to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “9/11 Recommendations*
3 *Implementation Act”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

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1 **TITLE I—REFORM OF THE**
2 **INTELLIGENCE COMMUNITY**

3 **SEC. 1001. SHORT TITLE.**

4 *This title may be cited as the “National Security Intel-*
5 *ligence Improvement Act of 2004”.*

6 **Subtitle A—Establishment of**
7 **National Intelligence Director**

8 **SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MAN-**
9 **AGEMENT OF INTELLIGENCE COMMUNITY.**

10 *(a) IN GENERAL.—Title I of the National Security Act*
11 *of 1947 (50 U.S.C. 402 et seq.) is amended by striking sec-*

1 *tions 102 through 104 and inserting the following new sec-*
2 *tions:*

3 “*NATIONAL INTELLIGENCE DIRECTOR*

4 “*SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—*

5 *(1) There is a National Intelligence Director who shall be*
6 *appointed by the President, by and with the advice and*
7 *consent of the Senate.*

8 “*(2) The National Intelligence Director shall not be lo-*
9 *cated within the Executive Office of the President.*

10 “*(b) PRINCIPAL RESPONSIBILITY.—Subject to the au-*
11 *thority, direction, and control of the President, the National*
12 *Intelligence Director shall—*

13 “*(1) serve as head of the intelligence community;*

14 “*(2) act as the principal adviser to the Presi-*
15 *dent, to the National Security Council, and the*
16 *Homeland Security Council for intelligence matters*
17 *related to the national security; and*

18 “*(3) through the heads of the departments con-*
19 *taining elements of the intelligence community, and*
20 *the Central Intelligence Agency, manage and oversee*
21 *the execution of the National Intelligence Program*
22 *and direct the National Intelligence Program.*

23 “*(c) PROHIBITION ON DUAL SERVICE.—The indi-*
24 *vidual serving in the position of National Intelligence Di-*
25 *rector shall not, while so serving, also serve as the Director*

1 *of the Central Intelligence Agency or as the head of any*
2 *other element of the intelligence community.*

3 “*RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL*
4 *INTELLIGENCE DIRECTOR*

5 “*SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1)*
6 *Under the direction of the President, the National Intel-*
7 *ligence Director shall be responsible for ensuring that na-*
8 *tional intelligence is provided—*

9 “*(A) to the President;*

10 “*(B) to the heads of departments and agencies of*
11 *the executive branch;*

12 “*(C) to the Chairman of the Joint Chiefs of Staff*
13 *and senior military commanders;*

14 “*(D) where appropriate, to the Senate and*
15 *House of Representatives and the committees thereof;*
16 *and*

17 “*(E) to such other persons as the National Intel-*
18 *ligence Director determines to be appropriate.*

19 “*(2) Such national intelligence should be timely, objec-*
20 *tive, independent of political considerations, and based*
21 *upon all sources available to the intelligence community*
22 *and other appropriate entities.*

23 “*(b) ACCESS TO INTELLIGENCE.—To the extent ap-*
24 *proved by the President, the National Intelligence Director*
25 *shall have access to all national intelligence and intelligence*
26 *related to the national security which is collected by any*

1 *Federal department, agency, or other entity, except as other-*
2 *wise provided by law or, as appropriate, under guidelines*
3 *agreed upon by the Attorney General and the National In-*
4 *telligence Director.*

5 “(c) *BUDGET AUTHORITIES.*—(1)(A) *The National In-*
6 *telligence Director shall develop and present to the Presi-*
7 *dent on an annual basis a budget for intelligence and intel-*
8 *ligence-related activities of the United States.*

9 “(B) *In carrying out subparagraph (A) for any fiscal*
10 *year for the components of the budget that comprise the Na-*
11 *tional Intelligence Program, the National Intelligence Di-*
12 *rector shall provide guidance to the heads of departments*
13 *containing elements of the intelligence community, and to*
14 *the heads of the elements of the intelligence community, for*
15 *development of budget inputs to the National Intelligence*
16 *Director.*

17 “(2)(A) *The National Intelligence Director shall par-*
18 *ticipate in the development by the Secretary of Defense of*
19 *the annual budgets for the Joint Military Intelligence Pro-*
20 *gram and for Tactical Intelligence and Related Activities.*

21 “(B) *The National Intelligence Director shall provide*
22 *guidance for the development of the annual budget for each*
23 *element of the intelligence community that is not within*
24 *the National Intelligence Program.*

1 “(3) *In carrying out paragraphs (1) and (2), the Na-*
2 *tional Intelligence Director may, as appropriate, obtain the*
3 *advice of the Joint Intelligence Community Council.*

4 “(4) *The National Intelligence Director shall ensure*
5 *the effective execution of the annual budget for intelligence*
6 *and intelligence-related activities.*

7 “(5)(A) *The National Intelligence Director shall facili-*
8 *tate the management and execution of funds appropriated*
9 *for the National Intelligence Program.*

10 “(B) *Notwithstanding any other provision of law, in*
11 *receiving funds pursuant to relevant appropriations Acts*
12 *for the National Intelligence Program, the Office of Manage-*
13 *ment and Budget shall apportion funds appropriated for*
14 *the National Intelligence Program to the National Intel-*
15 *ligence Director for allocation to the elements of the intel-*
16 *ligence community through the host executive departments*
17 *that manage programs and activities that are part of the*
18 *National Intelligence Program.*

19 “(C) *The National Intelligence Director shall monitor*
20 *the implementation and execution of the National Intel-*
21 *ligence Program by the heads of the elements of the intel-*
22 *ligence community that manage programs and activities*
23 *that are part of the National Intelligence Program, which*
24 *may include audits and evaluations, as necessary and fea-*
25 *sible.*

1 “(6) *Apportionment and allotment of funds under this*
2 *subsection shall be subject to chapter 13 and section 1517*
3 *of title 31, United States Code, and the Congressional Budg-*
4 *et and Impoundment Control Act of 1974 (2 U.S.C. 621*
5 *et seq.).*

6 “(7)(A) *The National Intelligence Director shall pro-*
7 *vide a quarterly report, beginning April 1, 2005, and end-*
8 *ing April 1, 2007, to the President and the Congress regard-*
9 *ing implementation of this section.*

10 “(B) *The National Intelligence Director shall report*
11 *to the President and the Congress not later than 5 days*
12 *after learning of any instance in which a departmental*
13 *comptroller acts in a manner inconsistent with the law (in-*
14 *cluding permanent statutes, authorization Acts, and appro-*
15 *priations Acts), or the direction of the National Intelligence*
16 *Director, in carrying out the National Intelligence Pro-*
17 *gram.*

18 “(d) *ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN*
19 *REPROGRAMMING.—(1) No funds made available under the*
20 *National Intelligence Program may be transferred or repro-*
21 *grammed without the prior approval of the National Intel-*
22 *ligence Director, except in accordance with procedures pre-*
23 *scribed by the National Intelligence Director.*

24 “(2) *The Secretary of Defense shall consult with the*
25 *National Intelligence Director before transferring or re-*

1 *programming funds made available under the Joint Mili-*
2 *tary Intelligence Program.*

3 “(e) *TRANSFER OF FUNDS OR PERSONNEL WITHIN*
4 *NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to*
5 *any other authorities available under law for such purposes,*
6 *the National Intelligence Director, with the approval of the*
7 *Director of the Office of Management and Budget—*

8 “(A) *may transfer funds appropriated for a pro-*
9 *gram within the National Intelligence Program to an-*
10 *other such program; and*

11 “(B) *in accordance with procedures to be devel-*
12 *oped by the National Intelligence Director and the*
13 *heads of the departments and agencies concerned, may*
14 *transfer personnel authorized for an element of the in-*
15 *telligence community to another such element for pe-*
16 *riods up to one year.*

17 “(2) *The amounts available for transfer in the Na-*
18 *tional Intelligence Program in any given fiscal year, and*
19 *the terms and conditions governing such transfers, are sub-*
20 *ject to the provisions of annual appropriations Acts and*
21 *this subsection.*

22 “(3)(A) *A transfer of funds or personnel may be made*
23 *under this subsection only if—*

1 “(i) the funds or personnel are being transferred
2 to an activity that is a higher priority intelligence
3 activity;

4 “(ii) the need for funds or personnel for such ac-
5 tivity is based on unforeseen requirements;

6 “(iii) the transfer does not involve a transfer of
7 funds to the Reserve for Contingencies of the Central
8 Intelligence Agency;

9 “(iv) in the case of a transfer of funds, the trans-
10 fer results in a cumulative transfer of funds out of
11 any department or agency, as appropriate, funded in
12 the National Intelligence Program in a single fiscal
13 year—

14 “(I) that is less than \$100,000,000, and

15 “(II) that is less than 5 percent of amounts
16 available to a department or agency under the
17 National Intelligence Program; and

18 “(v) the transfer does not terminate a program.

19 “(B) A transfer may be made without regard to a limi-
20 tation set forth in clause (iv) or (v) of subparagraph (A)
21 if the transfer has the concurrence of the head of the depart-
22 ment or agency involved. The authority to provide such con-
23 currence may only be delegated by the head of the depart-
24 ment or agency involved to the deputy of such officer.

1 “(4) *Funds transferred under this subsection shall re-*
2 *main available for the same period as the appropriations*
3 *account to which transferred.*

4 “(5) *Any transfer of funds under this subsection shall*
5 *be carried out in accordance with existing procedures appli-*
6 *cable to reprogramming notifications for the appropriate*
7 *congressional committees. Any proposed transfer for which*
8 *notice is given to the appropriate congressional committees*
9 *shall be accompanied by a report explaining the nature of*
10 *the proposed transfer and how it satisfies the requirements*
11 *of this subsection. In addition, the congressional intelligence*
12 *committees shall be promptly notified of any transfer of*
13 *funds made pursuant to this subsection in any case in*
14 *which the transfer would not have otherwise required re-*
15 *programming notification under procedures in effect as of*
16 *the date of the enactment of this subsection.*

17 “(6)(A) *The National Intelligence Director shall*
18 *promptly submit to—*

19 “(i) *the congressional intelligence committees,*

20 “(ii) *in the case of the transfer of personnel to*
21 *or from the Department of Defense, the Committee on*
22 *Armed Services of the Senate and the Committee on*
23 *Armed Services of the House of Representatives, and*

24 “(iii) *in the case of the transfer of personnel to*
25 *or from the Department of Justice, to the Committees*

1 *on the Judiciary of the Senate and the House of Rep-*
2 *resentatives,*
3 *a report on any transfer of personnel made pursuant to*
4 *this subsection.*

5 *“(B) The Director shall include in any such report an*
6 *explanation of the nature of the transfer and how it satisfies*
7 *the requirements of this subsection.*

8 *“(f) TASKING AND OTHER AUTHORITIES.—(1)(A) The*
9 *National Intelligence Director shall—*

10 *“(i) develop collection objectives, priorities, and*
11 *guidance for the intelligence community to ensure*
12 *timely and effective collection, processing, analysis,*
13 *and dissemination (including access by users to col-*
14 *lected data consistent with applicable law and, as ap-*
15 *propriate, the guidelines referred to in subsection (b)*
16 *and analytic products generated by or within the in-*
17 *telligence community) of national intelligence;*

18 *“(ii) determine and establish requirements and*
19 *priorities for, and manage and direct the tasking of,*
20 *collection, analysis, production, and dissemination of*
21 *national intelligence by elements of the intelligence*
22 *community, including—*

23 *“(I) approving requirements for collection*
24 *and analysis, and*

1 “(II) resolving conflicts in collection re-
2 quirements and in the tasking of national collec-
3 tion assets of the elements of the intelligence com-
4 munity; and

5 “(iii) provide advisory tasking to intelligence
6 elements of those agencies and departments not within
7 the National Intelligence Program.

8 “(B) The authority of the National Intelligence Direc-
9 tor under subparagraph (A) shall not apply—

10 “(i) insofar as the President so directs;

11 “(ii) with respect to clause (ii) of subparagraph
12 (A), insofar as the Secretary of Defense exercises
13 tasking authority under plans or arrangements
14 agreed upon by the Secretary of Defense and the Na-
15 tional Intelligence Director; or

16 “(iii) to the direct dissemination of information
17 to State government and local government officials
18 and private sector entities pursuant to sections 201
19 and 892 of the Homeland Security Act of 2002 (6
20 U.S.C. 121, 482).

21 “(2) The National Intelligence Director shall oversee
22 the National Counterterrorism Center and may establish
23 such other national intelligence centers as the Director de-
24 termines necessary.

1 “(3)(A) *The National Intelligence Director shall pre-*
2 *scribe community-wide personnel policies that—*

3 “(i) *facilitate assignments across community ele-*
4 *ments and to the intelligence centers;*

5 “(ii) *establish overarching standards for intel-*
6 *ligence education and training; and*

7 “(iii) *promote the most effective analysis and*
8 *collection of intelligence by ensuring a diverse work-*
9 *force, including the recruitment and training of*
10 *women, minorities, and individuals with diverse, eth-*
11 *nic, and linguistic backgrounds.*

12 “(B) *In developing the policies prescribed under sub-*
13 *paragraph (A), the National Intelligence Director shall con-*
14 *sult with the heads of the departments containing the ele-*
15 *ments of the intelligence community.*

16 “(C) *Policies prescribed under subparagraph (A) shall*
17 *not be inconsistent with the personnel policies otherwise ap-*
18 *plicable to members of the uniformed services.*

19 “(4) *The National Intelligence Director shall ensure*
20 *compliance with the Constitution and laws of the United*
21 *States by the Central Intelligence Agency and shall ensure*
22 *such compliance by other elements of the intelligence com-*
23 *munity through the host executive departments that manage*
24 *the programs and activities that are part of the National*
25 *Intelligence Program.*

1 “(5) *The National Intelligence Director shall ensure*
2 *the elimination of waste and unnecessary duplication with-*
3 *in the intelligence community.*

4 “(6) *The National Intelligence Director shall perform*
5 *such other functions as the President may direct.*

6 “(7) *Nothing in this title shall be construed as affecting*
7 *the role of the Department of Justice or the Attorney Gen-*
8 *eral with respect to applications under the Foreign Intel-*
9 *ligence Surveillance Act of 1978.*

10 “(g) *INTELLIGENCE INFORMATION SHARING.—(1) The*
11 *National Intelligence Director shall have principal author-*
12 *ity to ensure maximum availability of and access to intel-*
13 *ligence information within the intelligence community con-*
14 *sistent with national security requirements. The National*
15 *Intelligence Director shall—*

16 “(A) *establish uniform security standards and*
17 *procedures;*

18 “(B) *establish common information technology*
19 *standards, protocols, and interfaces;*

20 “(C) *ensure development of information tech-*
21 *nology systems that include multi-level security and*
22 *intelligence integration capabilities; and*

23 “(D) *establish policies and procedures to resolve*
24 *conflicts between the need to share intelligence infor-*

1 *mation and the need to protect intelligence sources*
2 *and methods.*

3 *“(2) The President shall ensure that the National In-*
4 *telligence Director has all necessary support and authorities*
5 *to fully and effectively implement paragraph (1).*

6 *“(3) Except as otherwise directed by the President or*
7 *with the specific written agreement of the head of the de-*
8 *partment or agency in question, a Federal agency or official*
9 *shall not be considered to have met any obligation to pro-*
10 *vide any information, report, assessment, or other material*
11 *(including unevaluated intelligence information) to that de-*
12 *partment or agency solely by virtue of having provided that*
13 *information, report, assessment, or other material to the*
14 *National Intelligence Director or the National*
15 *Counterterrorism Center.*

16 *“(4) Not later than February 1 of each year, the Na-*
17 *tional Intelligence Director shall submit to the President*
18 *and to the Congress an annual report that identifies any*
19 *statute, regulation, policy, or practice that the Director be-*
20 *lieves impedes the ability of the Director to fully and effec-*
21 *tively implement paragraph (1).*

22 *“(h) ANALYSIS.—(1) The National Intelligence Direc-*
23 *tor shall ensure that all elements of the intelligence commu-*
24 *nity strive for the most accurate analysis of intelligence de-*
25 *rived from all sources to support national security needs.*

1 “(2) *The National Intelligence Director shall ensure*
2 *that intelligence analysis generally receives the highest pri-*
3 *ority when distributing resources within the intelligence*
4 *community and shall carry out duties under this subsection*
5 *in a manner that—*

6 “(A) *develops all-source analysis techniques;*

7 “(B) *ensures competitive analysis;*

8 “(C) *ensures that differences in judgment are*
9 *fully considered and brought to the attention of pol-*
10 *icymakers; and*

11 “(D) *builds relationships between intelligence*
12 *collectors and analysts to facilitate greater under-*
13 *standing of the needs of analysts.*

14 “(i) *PROTECTION OF INTELLIGENCE SOURCES AND*
15 *METHODS.—(1) In order to protect intelligence sources and*
16 *methods from unauthorized disclosure and, consistent with*
17 *that protection, to maximize the dissemination of intel-*
18 *ligence, the National Intelligence Director shall establish*
19 *and implement guidelines for the intelligence community*
20 *for the following purposes:*

21 “(A) *Classification of information.*

22 “(B) *Access to and dissemination of intelligence,*
23 *both in final form and in the form when initially*
24 *gathered.*

1 “(C) *Preparation of intelligence products in such*
2 *a way that source information is removed to allow for*
3 *dissemination at the lowest level of classification pos-*
4 *sible or in unclassified form to the extent practicable.*

5 “(2) *The Director may only delegate a duty or author-*
6 *ity given the Director under this subsection to the Deputy*
7 *National Intelligence Director.*

8 “(j) *UNIFORM PROCEDURES FOR SENSITIVE COM-*
9 *PARTMENTED INFORMATION.—The President, acting*
10 *through the National Intelligence Director, shall—*

11 “(1) *establish uniform standards and procedures*
12 *for the grant of access to sensitive compartmented in-*
13 *formation to any officer or employee of any agency*
14 *or department of the United States and to employees*
15 *of contractors of those agencies or departments;*

16 “(2) *ensure the consistent implementation of*
17 *those standards and procedures throughout such agen-*
18 *cies and departments;*

19 “(3) *ensure that security clearances granted by*
20 *individual elements of the intelligence community are*
21 *recognized by all elements of the intelligence commu-*
22 *nity, and under contracts entered into by those agen-*
23 *cies; and*

24 “(4) *ensure that the process for investigation and*
25 *adjudication of an application for access to sensitive*

1 *compartmented information is performed in the most*
2 *expeditious manner possible consistent with applica-*
3 *ble standards for national security.*

4 “(k) *COORDINATION WITH FOREIGN GOVERNMENTS.—*
5 *Under the direction of the President and in a manner con-*
6 *sistent with section 207 of the Foreign Service Act of 1980*
7 *(22 U.S.C. 3927), the National Intelligence Director shall*
8 *oversee the coordination of the relationships between ele-*
9 *ments of the intelligence community and the intelligence or*
10 *security services of foreign governments on all matters in-*
11 *volving intelligence related to the national security or in-*
12 *volving intelligence acquired through clandestine means.*

13 “(l) *ENHANCED PERSONNEL MANAGEMENT.—(1)(A)*
14 *The National Intelligence Director shall, under regulations*
15 *prescribed by the Director, provide incentives for personnel*
16 *of elements of the intelligence community to serve—*

17 *“(i) on the staff of the National Intelligence Di-*
18 *rector;*

19 *“(ii) on the staff of the national intelligence cen-*
20 *ters;*

21 *“(iii) on the staff of the National*
22 *Counterterrorism Center; and*

23 *“(iv) in other positions in support of the intel-*
24 *ligence community management functions of the Di-*
25 *rector.*

1 “(B) Incentives under subparagraph (A) may include
2 financial incentives, bonuses, and such other awards and
3 incentives as the Director considers appropriate.

4 “(2)(A) Notwithstanding any other provision of law,
5 the personnel of an element of the intelligence community
6 who are assigned or detailed under paragraph (1)(A) to
7 service under the National Intelligence Director shall be
8 promoted at rates equivalent to or better than personnel of
9 such element who are not so assigned or detailed.

10 “(B) The Director may prescribe regulations to carry
11 out this section.

12 “(3)(A) The National Intelligence Director shall pre-
13 scribe mechanisms to facilitate the rotation of personnel of
14 the intelligence community through various elements of the
15 intelligence community in the course of their careers in
16 order to facilitate the widest possible understanding by such
17 personnel of the variety of intelligence requirements, meth-
18 ods, users, and capabilities.

19 “(B) The mechanisms prescribed under subparagraph
20 (A) may include the following:

21 “(i) The establishment of special occupational
22 categories involving service, over the course of a ca-
23 reer, in more than one element of the intelligence com-
24 munity.

1 “(ii) *The provision of rewards for service in po-*
2 *sitions undertaking analysis and planning of oper-*
3 *ations involving two or more elements of the intel-*
4 *ligence community.*

5 “(iii) *The establishment of requirements for edu-*
6 *cation, training, service, and evaluation that involve*
7 *service in more than one element of the intelligence*
8 *community.*

9 “(C) *It is the sense of Congress that the mechanisms*
10 *prescribed under this subsection should, to the extent prac-*
11 *tical, seek to duplicate for civilian personnel within the in-*
12 *telligence community the joint officer management policies*
13 *established by chapter 38 of title 10, United States Code,*
14 *and the other amendments made by title IV of the Gold-*
15 *water–Nichols Department of Defense Reorganization Act*
16 *of 1986 (Public Law 99–433).*

17 “(4)(A) *This subsection shall not apply with respect*
18 *to personnel of the elements of the intelligence community*
19 *who are members of the uniformed services or law enforce-*
20 *ment officers (as that term is defined in section 5541(3)*
21 *of title 5, United States Code).*

22 “(B) *Assignment to the Office of the National Intel-*
23 *ligence Director of commissioned officers of the Armed*
24 *Forces shall be considered a joint-duty assignment for pur-*
25 *poses of the joint officer management policies prescribed by*

1 *chapter 38 of title 10, United States Code, and other provi-*
2 *sions of that title.*

3 “(m) *ADDITIONAL AUTHORITY WITH RESPECT TO*
4 *PERSONNEL.—(1) In addition to the authorities under sub-*
5 *section (f)(3), the National Intelligence Director may exer-*
6 *cise with respect to the personnel of the Office of the Na-*
7 *tional Intelligence Director any authority of the Director*
8 *of the Central Intelligence Agency with respect to the per-*
9 *sonnel of the Central Intelligence Agency under the Central*
10 *Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.),*
11 *and other applicable provisions of law, as of the date of*
12 *the enactment of this subsection to the same extent, and sub-*
13 *ject to the same conditions and limitations, that the Direc-*
14 *tor of the Central Intelligence Agency may exercise such au-*
15 *thority with respect to personnel of the Central Intelligence*
16 *Agency.*

17 “(2) *Employees and applicants for employment of the*
18 *Office of the National Intelligence Director shall have the*
19 *same rights and protections under the Office of the National*
20 *Intelligence Director as employees of the Central Intel-*
21 *ligence Agency have under the Central Intelligence Agency*
22 *Act of 1949, and other applicable provisions of law, as of*
23 *the date of the enactment of this subsection.*

24 “(n) *ACQUISITION AUTHORITIES.—(1) In carrying out*
25 *the responsibilities and authorities under this section, the*

1 *National Intelligence Director may exercise the acquisition*
2 *authorities referred to in the Central Intelligence Agency*
3 *Act of 1949 (50 U.S.C. 403a et seq.).*

4 “(2) *For the purpose of the exercise of any authority*
5 *referred to in paragraph (1), a reference to the head of an*
6 *agency shall be deemed to be a reference to the National*
7 *Intelligence Director or the Deputy National Intelligence*
8 *Director.*

9 “(3)(A) *Any determination or decision to be made*
10 *under an authority referred to in paragraph (1) by the head*
11 *of an agency may be made with respect to individual pur-*
12 *chases and contracts or with respect to classes of purchases*
13 *or contracts, and shall be final.*

14 “(B) *Except as provided in subparagraph (C), the Na-*
15 *tional Intelligence Director or the Deputy National Intel-*
16 *ligence Director may, in such official’s discretion, delegate*
17 *to any officer or other official of the Office of the National*
18 *Intelligence Director any authority to make a determina-*
19 *tion or decision as the head of the agency under an author-*
20 *ity referred to in paragraph (1).*

21 “(C) *The limitations and conditions set forth in sec-*
22 *tion 3(d) of the Central Intelligence Agency Act of 1949 (50*
23 *U.S.C. 403c(d)) shall apply to the exercise by the National*
24 *Intelligence Director of an authority referred to in para-*
25 *graph (1).*

1 “(D) *Each determination or decision required by an*
2 *authority referred to in the second sentence of section 3(d)*
3 *of the Central Intelligence Agency Act of 1949 shall be based*
4 *upon written findings made by the official making such de-*
5 *termination or decision, which findings shall be final and*
6 *shall be available within the Office of the National Intel-*
7 *ligence Director for a period of at least six years following*
8 *the date of such determination or decision.*

9 “(o) *CONSIDERATION OF VIEWS OF ELEMENTS OF THE*
10 *INTELLIGENCE COMMUNITY.—In carrying out the duties*
11 *and responsibilities under this section, the National Intel-*
12 *ligence Director shall take into account the views of a head*
13 *of a department containing an element of the intelligence*
14 *community and of the Director of the Central Intelligence*
15 *Agency.*

16 “OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

17 “SEC. 103. (a) *ESTABLISHMENT OF OFFICE; FUNC-*
18 *TION.—(1) There is an Office of the National Intelligence*
19 *Director. The Office of the National Intelligence Director*
20 *shall not be located within the Executive Office of the Presi-*
21 *dent.*

22 “(2) *The function of the Office is to assist the National*
23 *Intelligence Director in carrying out the duties and respon-*
24 *sibilities of the Director under this Act and to carry out*
25 *such other duties as may be prescribed by the President or*
26 *by law.*

1 “(3) *Any authority, power, or function vested by law*
2 *in any officer, employee, or part of the Office of the Na-*
3 *tional Intelligence Director is vested in, or may be exercised*
4 *by, the National Intelligence Director.*

5 “(4) *Exemptions, exceptions, and exclusions for the*
6 *Central Intelligence Agency or for personnel, resources, or*
7 *activities of such Agency from otherwise applicable laws,*
8 *other than the exception contained in section 104A(c)(1)*
9 *shall apply in the same manner to the Office of the National*
10 *Intelligence Director and the personnel, resources, or activi-*
11 *ties of such Office.*

12 “(b) *OFFICE OF NATIONAL INTELLIGENCE DIREC-*
13 *TOR.—(1) The Office of the National Intelligence Director*
14 *is composed of the following:*

15 “(A) *The National Intelligence Director.*

16 “(B) *The Deputy National Intelligence Director.*

17 “(C) *The Deputy National Intelligence Director*
18 *for Operations.*

19 “(D) *The Deputy National Intelligence Director*
20 *for Community Management and Resources.*

21 “(E) *The Associate National Intelligence Direc-*
22 *tor for Military Support.*

23 “(F) *The Associate National Intelligence Director*
24 *for Domestic Security.*

1 “(G) *The Associate National Intelligence Direc-*
2 *tor for Diplomatic Affairs.*

3 “(H) *The Associate National Intelligence Direc-*
4 *tor for Science and Technology.*

5 “(I) *The National Intelligence Council.*

6 “(J) *The General Counsel to the National Intel-*
7 *ligence Director.*

8 “(K) *Such other offices and officials as may be*
9 *established by law or the National Intelligence Direc-*
10 *tor may establish or designate in the Office.*

11 “(2) *To assist the National Intelligence Director in ful-*
12 *filling the duties and responsibilities of the Director, the*
13 *Director shall employ and utilize in the Office of the Na-*
14 *tional Intelligence Director a staff having expertise in mat-*
15 *ters relating to such duties and responsibilities and may*
16 *establish permanent positions and appropriate rates of pay*
17 *with respect to such staff.*

18 “(c) *DEPUTY NATIONAL INTELLIGENCE DIRECTOR.—*
19 *(1) There is a Deputy National Intelligence Director who*
20 *shall be appointed by the President, by and with the advice*
21 *and consent of the Senate.*

22 “(2) *The Deputy National Intelligence Director shall*
23 *assist the National Intelligence Director in carrying out the*
24 *responsibilities of the National Intelligence Director under*
25 *this Act.*

1 “(3) *The Deputy National Intelligence Director shall*
2 *act for, and exercise the powers of, the National Intelligence*
3 *Director during the absence or disability of the National*
4 *Intelligence Director or during a vacancy in the position*
5 *of the National Intelligence Director.*

6 “(4) *The Deputy National Intelligence Director takes*
7 *precedence in the Office of the National Intelligence Direc-*
8 *tor immediately after the National Intelligence Director.*

9 “(d) *DEPUTY NATIONAL INTELLIGENCE DIRECTOR*
10 *FOR OPERATIONS.—(1) There is a Deputy National Intel-*
11 *ligence Director for Operations.*

12 “(2) *The Deputy National Intelligence Director for*
13 *Operations shall—*

14 “(A) *assist the National Intelligence Director in*
15 *all aspects of intelligence operations, including intel-*
16 *ligence tasking, requirements, collection, and analysis;*

17 “(B) *assist the National Intelligence Director in*
18 *overseeing the national intelligence centers; and*

19 “(C) *perform such other duties and exercise such*
20 *powers as National Intelligence Director may pre-*
21 *scribe.*

22 “(e) *DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR*
23 *COMMUNITY MANAGEMENT AND RESOURCES.—(1) There is*
24 *a Deputy National Intelligence Director for Community*
25 *Management and Resources.*

1 “(2) *The Deputy National Intelligence Director for*
2 *Community Management and Resources shall—*

3 “(A) *assist the National Intelligence Director in*
4 *all aspects of management and resources, including*
5 *administration, budgeting, information security, per-*
6 *sonnel, training, and programmatic functions; and*

7 “(B) *perform such other duties and exercise such*
8 *powers as the National Intelligence Director may pre-*
9 *scribe.*

10 “(f) *ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR*
11 *FOR MILITARY SUPPORT.—(1) There is an Associate Na-*
12 *tional Intelligence Director for Military Support who shall*
13 *be appointed by the National Intelligence Director, in con-*
14 *sultation with the Secretary of Defense.*

15 “(2) *The Associate National Intelligence Director for*
16 *Military Support shall—*

17 “(A) *ensure that the intelligence needs of the De-*
18 *partment of Defense are met; and*

19 “(B) *perform such other duties and exercise such*
20 *powers as the National Intelligence Director may pre-*
21 *scribe.*

22 “(g) *ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR*
23 *FOR DOMESTIC SECURITY.—(1) There is an Associate Na-*
24 *tional Intelligence Director for Domestic Security who shall*
25 *be appointed by the National Intelligence Director in con-*

1 *sultation with the Attorney General and the Secretary of*
2 *Homeland Security.*

3 “(2) *The Associate National Intelligence Director for*
4 *Domestic Security shall—*

5 “(A) *ensure that the intelligence needs of the De-*
6 *partment of Justice, the Department of Homeland Se-*
7 *curity, and other relevant executive departments and*
8 *agencies are met; and*

9 “(B) *perform such other duties and exercise such*
10 *powers as the National Intelligence Director may pre-*
11 *scribe, except that the National Intelligence Director*
12 *may not make such officer responsible for dissemi-*
13 *nating any domestic or homeland security informa-*
14 *tion to State government or local government officials*
15 *or any private sector entity.*

16 “(h) *ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR*
17 *FOR DIPLOMATIC AFFAIRS.—(1) There is an Associate Na-*
18 *tional Intelligence Director for Diplomatic Affairs who*
19 *shall be appointed by the National Intelligence Director in*
20 *consultation with the Secretary of State.*

21 “(2) *The Associate National Intelligence Director for*
22 *Diplomatic Affairs shall—*

23 “(A) *ensure that the intelligence needs of the De-*
24 *partment of State are met; and*

1 “(B) perform such other duties and exercise such
2 powers as the National Intelligence Director may pre-
3 scribe.

4 “(i) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR
5 FOR SCIENCE AND TECHNOLOGY.—(1) There is an Asso-
6 ciate National Intelligence Director for Science and Tech-
7 nology who shall be appointed by the National Intelligence
8 Director.

9 “(2) The Associate National Intelligence Director for
10 Science and Technology shall—

11 “(A) advise the National Intelligence Director re-
12 garding research and development efforts and prior-
13 ities in support of the intelligence mission, to ensure
14 that the science and technology needs of the National
15 Intelligence Program will be met;

16 “(B) develop in consultation with appropriate
17 agencies and the Associate National Intelligence Di-
18 rectors for Military Support, Domestic Security, and
19 Diplomatic Affairs a strategic plan to support United
20 States leadership in science and technology to facili-
21 tate intelligence missions; and

22 “(C) perform such other duties and exercise such
23 powers as the National Intelligence Director may pre-
24 scribe.

1 “(j) *MILITARY STATUS OF DIRECTOR AND DEPUTY DI-*
2 *RECTORS.—(1) Not more than one of the individuals serv-*
3 *ing in the positions specified in paragraph (2) may be a*
4 *commissioned officer of the Armed Forces in active status.*

5 “(2) *The positions referred to in this paragraph are*
6 *the following:*

7 “(A) *The National Intelligence Director.*

8 “(B) *The Deputy National Intelligence Director.*

9 “(3) *It is the sense of Congress that, under ordinary*
10 *circumstances, it is desirable that one of the individuals*
11 *-serving in the positions specified in paragraph (2)—*

12 “(A) *be a commissioned officer of the Armed*
13 *Forces, in active status; or*

14 “(B) *have, by training or experience, an appre-*
15 *ciation of military intelligence activities and require-*
16 *ments.*

17 “(4) *A commissioned officer of the Armed Forces, while*
18 *serv-ing in a position specified in paragraph (2)—*

19 “(A) *shall not be subject to supervision or control*
20 *by the Secretary of Defense or by any officer or em-*
21 *ployee of the Department of Defense;*

22 “(B) *shall not exercise, by reason of the officer’s*
23 *status as a commissioned officer, any supervision or*
24 *control with respect to any of the military or civilian*

1 *personnel of the Department of Defense except as oth-*
2 *erwise authorized by law; and*

3 *“(C) shall not be counted against the numbers*
4 *and percentages of commissioned officers of the rank*
5 *and grade of such officer authorized for the military*
6 *department of that officer.*

7 *“(5) Except as provided in subparagraph (A) or (B)*
8 *of paragraph (4), the appointment of an officer of the*
9 *Armed Forces to a position specified in paragraph (2) shall*
10 *not affect the status, position, rank, or grade of such officer*
11 *in the Armed Forces, or any emolument, perquisite, right,*
12 *privilege, or benefit incident to or arising out of such status,*
13 *position, rank, or grade.*

14 *“(6) A commissioned officer of the Armed Forces on*
15 *active duty who is appointed to a position specified in*
16 *paragraph (2), while serving in such position and while*
17 *remaining on active duty, shall continue to receive military*
18 *pay and allowances and shall not receive the pay prescribed*
19 *for such position. Funds from which such pay and allow-*
20 *ances are paid shall be reimbursed from funds available to*
21 *the National Intelligence Director.*

22 *“(k) NATIONAL INTELLIGENCE COUNCIL.—(1) There is*
23 *a National Intelligence Council.*

24 *“(2)(A) The National Intelligence Council shall be*
25 *composed of senior analysts within the intelligence commu-*

1 nity and substantive experts from the public and private
2 sector, who shall be appointed by, report to, and serve at
3 the pleasure of, the National Intelligence Director.

4 “(B) The Director shall prescribe appropriate security
5 requirements for personnel appointed from the private sec-
6 tor as a condition of service on the Council, or as contrac-
7 tors of the Council or employees of such contractors, to en-
8 sure the protection of intelligence sources and methods while
9 avoiding, wherever possible, unduly intrusive requirements
10 which the Director considers to be unnecessary for this pur-
11 pose.

12 “(3) The National Intelligence Council shall—

13 “(A) produce national intelligence estimates for
14 the United States Government, including alternative
15 views held by elements of the intelligence community;

16 “(B) evaluate community-wide collection and
17 production of intelligence by the intelligence commu-
18 nity and the requirements and resources of such col-
19 lection and production; and

20 “(C) otherwise assist the National Intelligence
21 Director in carrying out the responsibilities of the Di-
22 rector.

23 “(4) Within their respective areas of expertise and
24 under the direction of the National Intelligence Director,
25 the members of the National Intelligence Council shall con-

1 *stitute the senior intelligence advisers of the intelligence*
2 *community for purposes of representing the views of the in-*
3 *telligence community within the United States Government.*

4 “(5) *Subject to the direction and control of the Na-*
5 *tional Intelligence Director, the National Intelligence Coun-*
6 *cil may carry out its responsibilities under this subsection*
7 *by contract, including contracts for substantive experts nec-*
8 *essary to assist the Council with particular assessments*
9 *under this subsection.*

10 “(6) *The National Intelligence Director shall make*
11 *available to the National Intelligence Council such per-*
12 *sonnel as may be necessary to permit the Council to carry*
13 *out its responsibilities under this subsection.*

14 “(7)(A) *The National Intelligence Director shall take*
15 *appropriate measures to ensure that the National Intel-*
16 *ligence Council and its staff satisfy the needs of policy-*
17 *making officials and other consumers of intelligence.*

18 “(B) *The Council shall be readily accessible to policy-*
19 *making officials and other appropriate individuals not oth-*
20 *erwise associated with the intelligence community.*

21 “(8) *The heads of the elements of the intelligence com-*
22 *munity shall, as appropriate, furnish such support to the*
23 *National Intelligence Council, including the preparation of*
24 *intelligence analyses, as may be required by the National*
25 *Intelligence Director.*

1 “(l) *GENERAL COUNSEL TO THE NATIONAL INTEL-*
2 *LIGENCE DIRECTOR.*—(1) *There is a General Counsel to the*
3 *National Intelligence Director.*

4 “(2) *The individual serving in the position of General*
5 *Counsel to the National Intelligence Director may not,*
6 *while so serving, also serve as the General Counsel of any*
7 *other agency or department of the United States.*

8 “(3) *The General Counsel to the National Intelligence*
9 *Director is the chief legal officer for the National Intel-*
10 *ligence Director.*

11 “(4) *The General Counsel to the National Intelligence*
12 *Director shall perform such functions as the National Intel-*
13 *ligence Director may prescribe.*

14 “(m) *INTELLIGENCE COMMUNITY INFORMATION TECH-*
15 *NOLOGY OFFICER.*—(1) *There is an Intelligence Commu-*
16 *nity Information Technology Officer who shall be appointed*
17 *by the National Intelligence Director.*

18 “(2) *The mission of the Intelligence Community Infor-*
19 *mation Technology Officer is to assist the National Intel-*
20 *ligence Director in ensuring the sharing of information in*
21 *the fullest and most prompt manner between and among*
22 *elements of the intelligence community consistent with sec-*
23 *tion 102A(g).*

24 “(3) *The Intelligence Community Information Tech-*
25 *nology Officer shall—*

1 “(A) consult with the National Intelligence Di-
2 rector who shall provide guidance to the heads of the
3 department containing elements of the intelligence
4 community and heads of the elements of the intel-
5 ligence community as appropriate;

6 “(B) assist the Deputy National Intelligence Di-
7 rector for Community Management and Resources in
8 developing and implementing the Information Shar-
9 ing Environment (ISE) established under section
10 1017 of the 9/11 Recommendations Implementation
11 Act;

12 “(C) develop an enterprise architecture for the
13 intelligence community and assist the National Intel-
14 ligence Director through the Deputy National Intel-
15 ligence Director for Community Management and Re-
16 sources in ensuring that elements of the intelligence
17 community comply with such architecture;

18 “(D) have procurement approval authority over
19 all enterprise architecture-related information tech-
20 nology items funded in the National Intelligence Pro-
21 gram;

22 “(E) ensure that all such elements have the most
23 direct and continuous electronic access to all informa-
24 tion (including unevaluated intelligence consistent
25 with existing laws and the guidelines referred to in

1 *section 102A(b)) necessary for appropriately cleared*
2 *analysts to conduct comprehensive all-source analysis*
3 *and for appropriately cleared policymakers to per-*
4 *form their duties—*

5 *“(i) directly, in the case of the elements of*
6 *the intelligence community within the National*
7 *Intelligence Program, and*

8 *“(ii) in conjunction with the Secretary of*
9 *Defense and other applicable heads of depart-*
10 *ments with intelligence elements outside the Na-*
11 *tional Intelligence Program;*

12 *“(F) review and provide recommendations to the*
13 *Deputy National Intelligence Director for Community*
14 *Management and Resources on National Intelligence*
15 *Program budget requests for information technology*
16 *and national security systems;*

17 *“(G) assist the Deputy National Intelligence Di-*
18 *rector for Community Management and Resources in*
19 *promulgating and enforcing standards on informa-*
20 *tion technology and national security systems that*
21 *apply throughout the elements of the intelligence com-*
22 *munity;*

23 *“(H) ensure that within and between the ele-*
24 *ments of the National Intelligence Program, duplica-*

1 *tive and unnecessary information technology and na-*
2 *tional security systems are eliminated; and*

3 *“(I) pursuant to the direction of the National*
4 *Intelligence Director, consult with the Director of the*
5 *Office of Management and Budget to ensure that the*
6 *Office of the National Intelligence Director coordi-*
7 *nates and complies with national security require-*
8 *ments consistent with applicable law, Executive or-*
9 *ders, and guidance; and*

10 *“(J) perform such other duties with respect to*
11 *the information systems and information technology*
12 *of the Office of the National Intelligence Director as*
13 *may be prescribed by the Deputy National Intel-*
14 *ligence Director for Community Management and Re-*
15 *sources or specified by law.*

16 *“(n) COUNTERINTELLIGENCE OFFICER TO THE NA-*
17 *TIONAL INTELLIGENCE DIRECTOR.—(1) There is a Counter-*
18 *intelligence Officer to the National Intelligence Director*
19 *who shall be appointed by the National Intelligence Direc-*
20 *tor.*

21 *“(2) The mission of the Counterintelligence Officer to*
22 *the National Intelligence Director is to assist the National*
23 *Intelligence Director in reducing the threats of disclosure*
24 *or loss of classified or sensitive information or penetration*
25 *of national intelligence functions that may be potentiated*

1 *by increased information sharing, enterprise architectures,*
2 *or other activities under this Act.*

3 “(3) *The Counterintelligence Officer to the National*
4 *Intelligence Director shall—*

5 “(A) *assist the Deputy National Intelligence Di-*
6 *rector for Community Management and Resources in*
7 *developing and implementing counterintelligence poli-*
8 *cies for the functions of the Office of the National In-*
9 *telligence Director, in consultation with the Associate*
10 *National Intelligence Directors;*

11 “(B) *ensure that policies under subparagraph*
12 *(A) and the implementation of those policies are co-*
13 *ordinated with counterintelligence activities of appro-*
14 *priate agencies and elements of the National Intel-*
15 *ligence Program, and with the activities of the Intel-*
16 *ligence Community Information Officer;*

17 “(C) *review resource requirements to support the*
18 *mission of the Counterintelligence Officer under this*
19 *subsection and make recommendations to the Deputy*
20 *National Intelligence Director for Community Man-*
21 *agement and Resources with respect to those require-*
22 *ments; and*

23 “(D) *perform such other duties as the National*
24 *Intelligence Director shall prescribe.*

1 “CENTRAL INTELLIGENCE AGENCY

2 “SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—

3 *There is a Central Intelligence Agency.*

4 “(b) FUNCTION.—*The function of the Central Intel-*

5 *ligence Agency is to assist the Director of the Central Intel-*

6 *ligence Agency in carrying out the responsibilities specified*

7 *in section 104A(c).*

8 “DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

9 “SEC. 104A. (a) DIRECTOR OF CENTRAL INTEL-

10 *LIGENCE AGENCY.—There is a Director of the Central Intel-*

11 *ligence Agency who shall be appointed by the President, by*

12 *and with the advice and consent of the Senate. The Director*

13 *shall be under the authority, direction, and control of the*

14 *National Intelligence Director, except as otherwise deter-*

15 *mined by the President.*

16 “(b) DUTIES.—*In the capacity as Director of the Cen-*

17 *tral Intelligence Agency, the Director of the Central Intel-*

18 *ligence Agency shall—*

19 “(1) *carry out the responsibilities specified in*

20 *subsection (c); and*

21 “(2) *serve as the head of the Central Intelligence*

22 *Agency.*

23 “(c) RESPONSIBILITIES.—*The Director of the Central*

24 *Intelligence Agency shall—*

25 “(1) *collect intelligence through human sources*

26 *and by other appropriate means, except that the Di-*

1 *rector of the Central Intelligence Agency shall have no*
2 *police, subpoena, or law enforcement powers or inter-*
3 *nal security functions;*

4 *“(2) provide overall direction for the collection of*
5 *national intelligence overseas or outside the United*
6 *States through human sources by elements of the in-*
7 *telligence community authorized to undertake such*
8 *collection and, in coordination with other agencies of*
9 *the Government which are authorized to undertake*
10 *such collection, ensure that the most effective use is*
11 *made of resources and that the risks to the United*
12 *States and those involved in such collection are mini-*
13 *mized;*

14 *“(3) correlate and evaluate intelligence related to*
15 *the national security and provide appropriate dis-*
16 *semination of such intelligence;*

17 *“(4) perform such additional services as are of*
18 *common concern to the elements of the intelligence*
19 *community, which services the National Intelligence*
20 *Director determines can be more efficiently accom-*
21 *plished centrally; and*

22 *“(5) perform such other functions and duties re-*
23 *lated to intelligence affecting the national security as*
24 *the President or the National Intelligence Director*
25 *may direct.*

1 “(d) *DEPUTY DIRECTOR OF THE CENTRAL INTEL-*
2 *LIGENCE AGENCY.*—*There is a Deputy Director of the Cen-*
3 *tral Intelligence Agency who shall be appointed by the*
4 *President. The Deputy Director shall perform such func-*
5 *tions as the Director may prescribe and shall perform the*
6 *duties of the Director during the Director’s absence or dis-*
7 *ability or during a vacancy in the position of the Director*
8 *of the Central Intelligence Agency.*

9 “(e) *TERMINATION OF EMPLOYMENT OF CIA EMPLOY-*
10 *EES.*—(1) *Notwithstanding the provisions of any other law,*
11 *the Director of the Central Intelligence Agency may, in the*
12 *discretion of the Director, terminate the employment of any*
13 *officer or employee of the Central Intelligence Agency when-*
14 *ever the Director considers the termination of employment*
15 *of such officer or employee necessary or advisable in the*
16 *interests of the United States.*

17 “(2) *Any termination of employment of an officer or*
18 *employee under paragraph (1) shall not affect the right of*
19 *the officer or employee to seek or accept employment in any*
20 *other department, agency, or element of the United States*
21 *Government if declared eligible for such employment by the*
22 *Office of Personnel Management.”.*

23 “(b) *FIRST DIRECTOR.*—(1) *When the Senate receives*
24 *the nomination of a person for the initial appointment by*
25 *the President for the position of National Intelligence Direc-*

1 *tor, it shall consider and dispose of such nomination within*
 2 *a period of 30 legislative days.*

3 *(2) If the Senate does not dispose of such nomination*
 4 *referred to in paragraph (1) within such period—*

5 *(A) Senate confirmation is not required; and*

6 *(B) the appointment of such nominee as Na-*
 7 *tional Intelligence Director takes effect upon adminis-*
 8 *tration of the oath of office.*

9 *(3) For the purposes of this subsection, the term “legis-*
 10 *lative day” means a day on which the Senate is in session.*

11 **SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-**
 12 **LIGENCE.**

13 *Paragraph (5) of section 3 of the National Security*
 14 *Act of 1947 (50 U.S.C. 401a) is amended to read as follows:*

15 *“(5) The terms ‘national intelligence’ and ‘intel-*
 16 *ligence related to national security’ refer to all intel-*
 17 *ligence, regardless of the source from which derived*
 18 *and including information gathered within or outside*
 19 *the United States, that—*

20 *“(A) pertains, as determined consistent with*
 21 *any guidance issued by the President, to more*
 22 *than one United States Government agency; and*

23 *“(B) that involves—*

24 *“(i) threats to the United States, its*
 25 *people, property, or interests;*

1 “(ii) the development, proliferation, or
2 use of weapons of mass destruction; or

3 “(iii) any other matter bearing on
4 United States national or homeland secu-
5 rity.”.

6 **SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL CO-**
7 **ORDINATION BETWEEN DEPARTMENT OF DE-**
8 **FENSE AND CENTRAL INTELLIGENCE AGEN-**
9 **CY.**

10 (a) *DEVELOPMENT OF PROCEDURES.*—*The National*
11 *Intelligence Director, in consultation with the Secretary of*
12 *Defense and the Director of the Central Intelligence Agency,*
13 *shall develop joint procedures to be used by the Department*
14 *of Defense and the Central Intelligence Agency to improve*
15 *the coordination and deconfliction of operations that in-*
16 *volve elements of both the Armed Forces and the Central*
17 *Intelligence Agency consistent with national security and*
18 *the protection of human intelligence sources and methods.*
19 *Those procedures shall, at a minimum, provide the fol-*
20 *lowing:*

21 (1) *Methods by which the Director of the Central*
22 *Intelligence Agency and the Secretary of Defense can*
23 *improve communication and coordination in the*
24 *planning, execution, and sustainment of operations,*
25 *including, as a minimum—*

1 (A) *information exchange between senior of-*
2 *icials of the Central Intelligence Agency and*
3 *senior officers and officials of the Department of*
4 *Defense when planning for such an operation*
5 *commences by either organization; and*

6 (B) *exchange of information between the*
7 *Secretary and the Director of the Central Intel-*
8 *ligence Agency to ensure that senior operational*
9 *officials in both the Department of Defense and*
10 *the Central Intelligence Agency have knowledge*
11 *of the existence of the ongoing operations of the*
12 *other.*

13 (2) *When appropriate, in cases where the De-*
14 *partment of Defense and the Central Intelligence*
15 *Agency are conducting separate missions in the same*
16 *geographical area, mutual agreement on the tactical*
17 *and strategic objectives for the region and a clear de-*
18 *lineation of operational responsibilities to prevent*
19 *conflict and duplication of effort.*

20 (b) *IMPLEMENTATION REPORT.*—*Not later than 180*
21 *days after the date of the enactment of the Act, the National*
22 *Intelligence Director shall submit to the congressional de-*
23 *fense committees (as defined in section 101 of title 10,*
24 *United States Code) and the congressional intelligence com-*
25 *mittees (as defined in section 3(7) of the National Security*

1 *Act of 1947 (50 U.S.C. 401a(7))) a report describing the*
 2 *procedures established pursuant to subsection (a) and the*
 3 *status of the implementation of those procedures.*

4 **SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN**
 5 **APPOINTMENT OF CERTAIN OFFICIALS RE-**
 6 **SPONSIBLE FOR INTELLIGENCE-RELATED AC-**
 7 **TIVITIES.**

8 *Section 106 of the National Security Act of 1947 (50*
 9 *U.S.C. 403–6) is amended by striking all after the heading*
 10 *and inserting the following:*

11 *“(a) RECOMMENDATION OF NID IN CERTAIN APPOINT-*
 12 *MENTS.—(1) In the event of a vacancy in a position re-*
 13 *ferred to in paragraph (2), the National Intelligence Direc-*
 14 *tor shall recommend to the President an individual for*
 15 *nomination to fill the vacancy.*

16 *“(2) Paragraph (1) applies to the following positions:*

17 *“(A) The Deputy National Intelligence Director.*

18 *“(B) The Director of the Central Intelligence*
 19 *Agency.*

20 *“(b) CONCURRENCE OF NID IN APPOINTMENTS TO PO-*
 21 *SITIONS IN THE INTELLIGENCE COMMUNITY.—(1) In the*
 22 *event of a vacancy in a position referred to in paragraph*
 23 *(2), the head of the department or agency having jurisdic-*
 24 *tion over the position shall obtain the concurrence of the*
 25 *National Intelligence Director before appointing an indi-*

1 *vidual to fill the vacancy or recommending to the President*
2 *an individual to be nominated to fill the vacancy. If the*
3 *Director does not concur in the recommendation, the head*
4 *of the department or agency concerned may not fill the va-*
5 *cancy or make the recommendation to the President (as the*
6 *case may be). In the case in which the National Intelligence*
7 *Director does not concur in such a recommendation, the Di-*
8 *rector and the head of the department or agency concerned*
9 *may advise the President directly of the intention to with-*
10 *hold concurrence or to make a recommendation, as the case*
11 *may be.*

12 “(2) *Paragraph (1) applies to the following positions:*

13 “(A) *The Director of the National Security Agen-*
14 *cy.*

15 “(B) *The Director of the National Reconnois-*
16 *sance Office.*

17 “(C) *The Director of the National Geospatial-In-*
18 *telligence Agency.*

19 “(c) *CONSULTATION WITH NATIONAL INTELLIGENCE*
20 *DIRECTOR IN CERTAIN POSITIONS.—(1) In the event of a*
21 *vacancy in a position referred to in paragraph (2), the head*
22 *of the department or agency having jurisdiction over the*
23 *position shall consult with the National Intelligence Direc-*
24 *tor before appointing an individual to fill the vacancy or*

1 *recommending to the President an individual to be nomi-*
2 *nated to fill the vacancy.*

3 “(2) Paragraph (1) applies to the following positions:

4 “(A) *The Director of the Defense Intelligence*
5 *Agency.*

6 “(B) *The Assistant Secretary of State for Intel-*
7 *ligence and Research.*

8 “(C) *The Director of the Office of Intelligence of*
9 *the Department of Energy.*

10 “(D) *The Director of the Office of Counterintel-*
11 *ligence of the Department of Energy.*

12 “(E) *The Assistant Secretary for Intelligence and*
13 *Analysis of the Department of the Treasury.*

14 “(F) *The Executive Assistant Director for Intel-*
15 *ligence of the Federal Bureau of Investigation or suc-*
16 *cessor.*

17 “(G) *The Under Secretary of Homeland Security*
18 *for Information Analysis and Infrastructure Protec-*
19 *tion.*

20 “(H) *The Deputy Assistant Commandant of the*
21 *Coast Guard for Intelligence.*

22 **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTEL-**
23 **LIGENCE DIRECTOR.**

24 (a) *INITIAL APPOINTMENT OF THE NATIONAL INTEL-*
25 *LIGENCE DIRECTOR.*—Notwithstanding section 102(a)(1) of

1 *the National Security Act of 1947, as added by section*
2 *1011(a), the individual serving as the Director of Central*
3 *Intelligence on the date immediately preceding the date of*
4 *the enactment of this Act may, at the discretion of the Presi-*
5 *dent, become the initial National Intelligence Director.*

6 **(b) GENERAL REFERENCES.**—(1) *Any reference to the*
7 *Director of Central Intelligence in the Director’s capacity*
8 *as the head of the intelligence community in any law, regu-*
9 *lation, document, paper, or other record of the United*
10 *States shall be deemed to be a reference to the National In-*
11 *telligence Director.*

12 (2) *Any reference to the Director of Central Intelligence*
13 *in the Director’s capacity as the head of the Central Intel-*
14 *ligence Agency in any law, regulation, document, paper,*
15 *or other record of the United States shall be deemed to be*
16 *a reference to the Director of the Central Intelligence Agen-*
17 *cy.*

18 (3) *Any reference to the Deputy Director of Central*
19 *Intelligence in the Deputy Director’s capacity as deputy to*
20 *the head of the intelligence community in any law, regula-*
21 *tion, document, paper, or other record of the United States*
22 *shall be deemed to be a reference to the Deputy National*
23 *Intelligence Director.*

24 (4) *Any reference to the Deputy Director of Central*
25 *Intelligence for Community Management in any law, regu-*

1 lation, document, paper, or other record of the United
2 States shall be deemed to be a reference to the Deputy Na-
3 tional Intelligence Director for Community Management
4 and Resources.

5 **SEC. 1016. EXECUTIVE SCHEDULE MATTERS.**

6 (a) *EXECUTIVE SCHEDULE LEVEL I.*—Section 5312 of
7 title 5, United States Code, is amended by adding the end
8 the following new item:

9 “National Intelligence Director.”.

10 (b) *EXECUTIVE SCHEDULE LEVEL II.*—Section 5313
11 of title 5, United States Code, is amended by adding at
12 the end the following new items:

13 “Deputy National Intelligence Director.

14 “Director of the National Counterterrorism Cen-
15 ter.”.

16 (c) *EXECUTIVE SCHEDULE LEVEL IV.*—Section 5315
17 of title 5, United States Code, is amended by striking the
18 item relating to the Assistant Directors of Central Intel-
19 ligence.

20 **SEC. 1017. INFORMATION SHARING.**

21 (a) *FINDINGS.*—Congress makes the following findings:

22 (1) *The effective use of information, from all*
23 *available sources, is essential to the fight against ter-*
24 *ror and the protection of our homeland.*

1 (2) *The United States Government has access to*
2 *a vast amount of information, including not only tra-*
3 *ditional intelligence but also other government data-*
4 *bases, such as those containing customs or immigra-*
5 *tion information.*

6 (3) *In the period preceding September 11, 2001,*
7 *there were instances of potentially helpful information*
8 *that was available but that no person knew to ask for;*
9 *information that was distributed only in compart-*
10 *mented channels, and information that was requested*
11 *but could not be shared.*

12 (4) *The current system, in which each intel-*
13 *ligence agency has its own security practices, requires*
14 *a demonstrated “need to know” before sharing.*

15 (5) *The National Intelligence Director should*
16 *pursue setting an executable government-wide security*
17 *mode policy of “right-to-share,” one based on a prov-*
18 *en blend of both integrity and access control models*
19 *and supported by applicable law. No single agency*
20 *can create a meaningful government-wide informa-*
21 *tion sharing system on its own.*

22 (b) *ESTABLISHMENT OF INFORMATION SHARING ENVI-*
23 *RONMENT.—The President shall establish a secure informa-*
24 *tion sharing environment (ISE) for the sharing of intel-*
25 *ligence and related information in a manner consistent*

1 *with national security and the protection of privacy and*
2 *civil liberties. The information sharing environment (ISE)*
3 *shall be based on clearly defined and consistently applied*
4 *policies and procedures, and valid investigative, analytical,*
5 *and operational requirements.*

6 **SEC. 1018. REPORT ON INTEGRATION OF DRUG ENFORCE-**
7 **MENT AGENCY INTO THE INTELLIGENCE**
8 **COMMUNITY.**

9 (a) *REPORT.*—Not later than 120 days after the date
10 of enactment of this Act, the President shall submit to the
11 appropriate congressional committees a report on the prac-
12 ticality of integrating the Drug Enforcement Administra-
13 tion into the intelligence community.

14 (b) *APPROPRIATE CONGRESSIONAL COMMITTEES DE-*
15 *FINED.*—In this section, the term “appropriate congres-
16 sional committees” means—

17 (1) *the Permanent Select Committee on Intel-*
18 *ligence of the House of Representatives and the Select*
19 *Committee on Intelligence of the Senate; and*

20 (2) *the Committees on the Judiciary of the*
21 *House of Representatives and the Senate.*

1 **Subtitle** **B—National**
 2 **Counterterrorism Center and**
 3 **Civil Liberties Protections**

4 **SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.**

5 (a) *IN GENERAL.*—*Title I of the National Security Act*
 6 *of 1947 (50 U.S.C. 402 et seq.) is amended by adding at*
 7 *the end the following new section:*

8 “*NATIONAL COUNTERTERRORISM CENTER*

9 “*SEC. 119. (a) ESTABLISHMENT OF CENTER.*—*There*
 10 *is within the Office of the National Intelligence Director*
 11 *a National Counterterrorism Center.*

12 “*(b) DIRECTOR OF NATIONAL COUNTERTERRORISM*
 13 *CENTER.*—*There is a Director of the National*
 14 *Counterterrorism Center, who shall be the head of the Na-*
 15 *tional Counterterrorism Center, who shall be appointed by*
 16 *National Intelligence Director.*

17 “*(c) SUPERVISION.*—*The Director of the National*
 18 *Counterterrorism Center shall report to the National Intel-*
 19 *ligence Director on—*

20 “*(1) the budget and programs of the National*
 21 *Counterterrorism Center;*

22 “*(2) the activities of the Directorate of Intel-*
 23 *ligence of the National Counterterrorism Center under*
 24 *subsection (h);*

1 “(3) *the conduct of intelligence operations imple-*
2 *mented by other elements of the intelligence commu-*
3 *nity; and*

4 “(4) *the planning and progress of joint*
5 *counterterrorism operations (other than intelligence*
6 *operations).*

7 *The National Intelligence Director shall carry out this sec-*
8 *tion through the Deputy National Intelligence Director for*
9 *Operations.*

10 “(d) *PRIMARY MISSIONS.—The primary missions of*
11 *the National Counterterrorism Center shall be as follows:*

12 “(1) *To serve as the primary organization in the*
13 *United States Government for analyzing and inte-*
14 *grating all intelligence possessed or acquired by the*
15 *United States Government pertaining to terrorism*
16 *and counterterrorism, excepting intelligence per-*
17 *taining exclusively to domestic terrorists and domestic*
18 *counterterrorism.*

19 “(2) *To conduct strategic operational planning*
20 *for counterterrorism activities, integrating all instru-*
21 *ments of national power, including diplomatic, finan-*
22 *cial, military, intelligence, homeland security, and*
23 *law enforcement activities within and among agen-*
24 *cies.*

1 “(3) *To assign roles and missions responsibilities*
2 *as part of the its strategic operational planning du-*
3 *ties to lead Departments or agencies, as appropriate,*
4 *for counterterrorism activities that are consistent with*
5 *applicable law and that support counterterrorism*
6 *strategic plans, but shall not direct the execution of*
7 *any resulting operations.*

8 “(4) *To ensure that agencies, as appropriate,*
9 *have access to and receive all-source intelligence sup-*
10 *port needed to execute their counterterrorism plans or*
11 *perform independent, alternative analysis.*

12 “(5) *To ensure that such agencies have access to*
13 *and receive intelligence needed to accomplish their as-*
14 *signed activities.*

15 “(6) *To serve as the central and shared knowl-*
16 *edge bank on known and suspected terrorists and*
17 *international terror groups, as well as their goals,*
18 *strategies, capabilities, and networks of contacts and*
19 *support.*

20 “(e) *DOMESTIC COUNTERTERRORISM INTEL-*
21 *LIGENCE.—(1) The Center may, consistent with applicable*
22 *law, the direction of the President, and the guidelines re-*
23 *ferred to in section 102A(b), receive intelligence pertaining*
24 *exclusively to domestic counterterrorism from any Federal,*
25 *State, or local government or other source necessary to ful-*

1 *fill its responsibilities and retain and disseminate such in-*
2 *telligence.*

3 “(2) *Any agency authorized to conduct*
4 *counterterrorism activities may request information from*
5 *the Center to assist it in its responsibilities, consistent with*
6 *applicable law and the guidelines referred to in section*
7 *102A(b).*

8 “(f) *DUTIES AND RESPONSIBILITIES OF DIRECTOR.—*
9 *The Director of the National Counterterrorism Center*
10 *shall—*

11 “(1) *serve as the principal adviser to the Na-*
12 *tional Intelligence Director on intelligence operations*
13 *relating to counterterrorism;*

14 “(2) *provide strategic guidance and plans for the*
15 *civilian and military counterterrorism efforts of the*
16 *United States Government and for the effective inte-*
17 *gration of counterterrorism intelligence and oper-*
18 *ations across agency boundaries, both inside and out-*
19 *side the United States;*

20 “(3) *advise the National Intelligence Director on*
21 *the extent to which the counterterrorism program rec-*
22 *ommendations and budget proposals of the depart-*
23 *ments, agencies, and elements of the United States*
24 *Government conform to the priorities established by*
25 *the President;*

1 “(4) disseminate terrorism information, includ-
2 ing current terrorism threat analysis, to the Presi-
3 dent, the Vice President, the Secretaries of State, De-
4 fense, and Homeland Security, the Attorney General,
5 the Director of the Central Intelligence Agency, and
6 other officials of the executive branch as appropriate,
7 and to the appropriate committees of Congress;

8 “(5) support the Department of Justice and the
9 Department of Homeland Security, and other appro-
10 priate agencies, in fulfillment of their responsibilities
11 to disseminate terrorism information, consistent with
12 applicable law, guidelines referred to in section
13 102A(b), Executive orders and other Presidential
14 guidance, to State and local government officials, and
15 other entities, and coordinate dissemination of ter-
16 rorism information to foreign governments as ap-
17 proved by the National Intelligence Director;

18 “(6) consistent with priorities approved by the
19 President, assist the National Intelligence Director in
20 establishing requirements for the intelligence commu-
21 nity for the collection of terrorism information; and

22 “(7) perform such other duties as the National
23 Intelligence Director may prescribe or are prescribed
24 by law.

1 “(g) *LIMITATION.*—*The Director of the National*
2 *Counterterrorism Center may not direct the execution of*
3 *counterterrorism operations.*

4 “(h) *RESOLUTION OF DISPUTES.*—*The National Intel-*
5 *ligence Director shall resolve disagreements between the Na-*
6 *tional Counterterrorism Center and the head of a depart-*
7 *ment, agency, or element of the United States Government*
8 *on designations, assignments, plans, or responsibilities. The*
9 *head of such a department, agency, or element may appeal*
10 *the resolution of the disagreement by the National Intel-*
11 *ligence Director to the President.*

12 “(i) *DIRECTORATE OF INTELLIGENCE.*—*The Director*
13 *of the National Counterterrorism Center shall establish and*
14 *maintain within the National Counterterrorism Center a*
15 *Directorate of Intelligence which shall have primary re-*
16 *sponsibility within the United States Government for anal-*
17 *ysis of terrorism and terrorist organizations (except for*
18 *purely domestic terrorism and domestic terrorist organiza-*
19 *tions) from all sources of intelligence, whether collected in-*
20 *side or outside the United States.*

21 “(j) *DIRECTORATE OF STRATEGIC PLANNING.*—*The*
22 *Director of the National Counterterrorism Center shall es-*
23 *tablish and maintain within the National Counterterrorism*
24 *Center a Directorate of Strategic Planning which shall pro-*

1 *vide strategic guidance and plans for counterterrorism op-*
 2 *erations conducted by the United States Government.”.*

3 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 4 *the National Security Act of 1947 is amended by inserting*
 5 *after the item relating to section 118 the following new item:*
 “*Sec. 119. National Counterterrorism Center.*”.

6 **SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.**

7 (a) *CIVIL LIBERTIES PROTECTION OFFICER.*—(1)
 8 *Within the Office of the National Intelligence Director, there*
 9 *is a Civil Liberties Protection Officer who shall be ap-*
 10 *pointed by the National Intelligence Director.*

11 (2) *The Civil Liberties Protection Officer shall report*
 12 *directly to the National Intelligence Director.*

13 (b) *DUTIES.*—*The Civil Liberties Protection Officer*
 14 *shall—*

15 (1) *ensure that the protection of civil liberties*
 16 *and privacy is appropriately incorporated in the*
 17 *policies and procedures developed for and imple-*
 18 *mented by the Office of the National Intelligence Di-*
 19 *rector and the elements of the intelligence community*
 20 *within the National Intelligence Program;*

21 (2) *oversee compliance by the Office and the Na-*
 22 *tional Intelligence Director with requirements under*
 23 *the Constitution and all laws, regulations, Executive*
 24 *orders, and implementing guidelines relating to civil*
 25 *liberties and privacy;*

1 (3) review and assess complaints and other in-
2 formation indicating possible abuses of civil liberties
3 and privacy in the administration of the programs
4 and operations of the Office and the National Intel-
5 ligence Director and, as appropriate, investigate any
6 such complaint or information;

7 (4) ensure that the use of technologies sustain,
8 and do not erode, privacy protections relating to the
9 use, collection, and disclosure of personal information;

10 (5) ensure that personal information contained
11 in a system of records subject to section 552a of title
12 5, United States Code (popularly referred to as the
13 ‘Privacy Act’), is handled in full compliance with fair
14 information practices as set out in that section;

15 (6) conduct privacy impact assessments when
16 appropriate or as required by law; and

17 (7) perform such other duties as may be pre-
18 scribed by the National Intelligence Director or speci-
19 fied by law.

20 (c) *USE OF AGENCY INSPECTORS GENERAL.*—When
21 appropriate, the Civil Liberties Protection Officer may refer
22 complaints to the Office of Inspector General having respon-
23 sibility for the affected element of the department or agency
24 of the intelligence community to conduct an investigation
25 under paragraph (3) of subsection (b).

1 **Subtitle C—Joint Intelligence**
2 **Community Council**

3 **SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

4 (a) *ESTABLISHMENT.*—(1) *There is hereby established*
5 *a Joint Intelligence Community Council.*

6 (b) *FUNCTIONS.*—(1) *The Joint Intelligence Commu-*
7 *nity Council shall provide advice to the National Intel-*
8 *ligence Director as appropriate.*

9 (2) *The National Intelligence Director shall consult*
10 *with the Joint Intelligence Community Council in devel-*
11 *oping guidance for the development of the annual National*
12 *Intelligence Program budget.*

13 (c) *MEMBERSHIP.*—*The Joint Intelligence Community*
14 *Council shall consist of the following:*

15 (1) *The National Intelligence Director, who shall*
16 *chair the Council.*

17 (2) *The Secretary of State.*

18 (3) *The Secretary of the Treasury.*

19 (4) *The Secretary of Defense.*

20 (5) *The Attorney General.*

21 (6) *The Secretary of Energy.*

22 (7) *The Secretary of Homeland Security.*

23 (8) *Such other officials of the executive branch as*
24 *the President may designate.*

1 ***Subtitle D—Improvement of Human***
2 ***Intelligence (HUMINT)***

3 ***SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY***
4 ***CRITICAL COMPONENT OF THE INTEL-***
5 ***LIGENCE COMMUNITY.***

6 *It is a sense of Congress that—*

7 *(1) the human intelligence officers of the intel-*
8 *ligence community have performed admirably and*
9 *honorably in the face of great personal dangers;*

10 *(2) during an extended period of unprecedented*
11 *investment and improvements in technical collection*
12 *means, the human intelligence capabilities of the*
13 *United States have not received the necessary and*
14 *commensurate priorities;*

15 *(3) human intelligence is becoming an increas-*
16 *ingly important capability to provide information on*
17 *the asymmetric threats to the national security of the*
18 *United States;*

19 *(4) the continued development and improvement*
20 *of a robust and empowered and flexible human intel-*
21 *ligence work force is critical to identifying, under-*
22 *standing, and countering the plans and intentions of*
23 *the adversaries of the United States; and*

24 *(5) an increased emphasis on, and resources ap-*
25 *plied to, enhancing the depth and breadth of human*

1 *intelligence capabilities of the United States intel-*
2 *ligence community must be among the top priorities*
3 *of the National Intelligence Director.*

4 **SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-**
5 **PACITY.**

6 *Not later than 6 months after the date of the enactment*
7 *of this Act, the National Intelligence Director shall submit*
8 *to Congress a report on existing human intelligence*
9 *(HUMINT) capacity which shall include a plan to imple-*
10 *ment changes, as necessary, to accelerate improvements to,*
11 *and increase the capacity of, HUMINT across the intel-*
12 *ligence community.*

13 **Subtitle E—Improvement of Edu-**
14 **cation for the Intelligence Com-**
15 **munity**

16 **SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**
17 **QUIREMENTS UNDER NATIONAL SECURITY**
18 **EDUCATION PROGRAM.**

19 *(a) IN GENERAL.—(1) Subsection (b)(2) of section 802*
20 *of the David L. Boren National Security Education Act of*
21 *1991 (50 U.S.C. 1902) is amended to read as follows:*

22 *“(2) will meet the requirements for obligated*
23 *service described in subsection (j); and”.*

24 *(2) Such section is further amended by adding at the*
25 *end the following new subsection:*

1 “(j) *REQUIREMENTS FOR OBLIGATED SERVICE IN THE*
2 *GOVERNMENT.*—(1) *Each recipient of a scholarship or a fel-*
3 *lowship under the program shall work in a specified na-*
4 *tional security position. In this subsection, the term ‘speci-*
5 *fied national security position’ means a position of a de-*
6 *partment or agency of the United States that the Secretary*
7 *certifies is appropriate to use the unique language and re-*
8 *gion expertise acquired by the recipient pursuant to the*
9 *study for which scholarship or fellowship assistance (as the*
10 *case may be) was provided under the program.*

11 “(2) *Each such recipient shall commence work in a*
12 *specified national security position as soon as practicable*
13 *but in no case later than two years after the completion*
14 *by the recipient of the study for which scholarship or fellow-*
15 *ship assistance (as the case may be) was provided under*
16 *the program.*

17 “(3) *Each such recipient shall work in a specified na-*
18 *tional security position for a period specified by the Sec-*
19 *retary, which period shall include—*

20 “(A) *in the case of a recipient of a scholarship,*
21 *one year of service for each year, or portion thereof,*
22 *for which such scholarship assistance was provided,*
23 *and*

24 “(B) *in the case of a recipient of a fellowship,*
25 *not less than one nor more than three years for each*

1 *year, or portion thereof, for which such fellowship as-*
2 *sistance was provided.*

3 *“(4) Recipients shall seek specified national security*
4 *positions as follows:*

5 *“(A) In the Department of Defense or in any ele-*
6 *ment of the intelligence community.*

7 *“(B) In the Department of State or in the De-*
8 *partment of Homeland Security, if the recipient dem-*
9 *onstrates to the Secretary that no position is available*
10 *in the Department of Defense or in any element of the*
11 *intelligence community.*

12 *“(C) In any other Federal department or agency*
13 *not referred to in subparagraphs (A) and (B), if the*
14 *recipient demonstrates to the Secretary that no posi-*
15 *tion is available in a Federal department or agency*
16 *specified in such paragraphs.”.*

17 *(b) REGULATIONS.—The Secretary of Defense shall*
18 *prescribe regulations to carry out subsection (j) of section*
19 *802 of the David L. Boren National Security Education*
20 *Act of 1991, as added by subsection (a). In prescribing such*
21 *regulations, the Secretary shall establish standards that re-*
22 *cipients of scholarship and fellowship assistance under the*
23 *program under section 802 of the David L. Boren National*
24 *Security Education Act of 1991 are required to demonstrate*

1 *in order to satisfy the requirement of a good faith effort*
 2 *to gain employment as required under such subsection.*

3 (c) *APPLICABILITY.—(1) The amendments made by*
 4 *subsection (a) shall apply with respect to service agreements*
 5 *entered into under the David L. Boren National Security*
 6 *Education Act of 1991 on or after the date of the enactment*
 7 *of this Act.*

8 (2) *The amendments made by subsection (a) shall not*
 9 *affect the force, validity, or terms of any service agreement*
 10 *entered into under the David L. Boren National Security*
 11 *Education Act of 1991 before the date of the enactment of*
 12 *this Act that is in force as of that date.*

13 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP**
 14 **LANGUAGE INITIATIVE.**

15 (a) *INCREASE IN ANNUAL AUTHORIZATION OF APPRO-*
 16 *PRIATIONS.—(1) Title VIII of the Intelligence Authorization*
 17 *Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat.*
 18 *1271), as amended by section 311(c) of the Intelligence Au-*
 19 *thorization Act for Fiscal Year 1994 (Public Law 103–178;*
 20 *107 Stat. 2037) and by section 333(b) of the Intelligence*
 21 *Authorization Act for Fiscal Year 2003 (Public Law 107–*
 22 *306; 116 Stat. 2397), is amended in subsection (a) of sec-*
 23 *tion 811 by striking “there is authorized to be appropriated*
 24 *to the Secretary for each fiscal year, beginning with fiscal*
 25 *year 2003, \$10,000,000,” and inserting “there is authorized*

1 *to be appropriated to the Secretary for each of fiscal years*
2 *2003 and 2004, \$10,000,000, and for fiscal year 2005 and*
3 *each subsequent fiscal year, \$12,000,000.”*

4 *(2) Subsection (b) of such section is amended by insert-*
5 *ing “for fiscal years 2003 and 2004 only” after “authoriza-*
6 *tion of appropriations under subsection (a)”.*

7 *(b) REQUIREMENT FOR EMPLOYMENT AGREEMENTS.—(1) Section 802(i) of the David L. Boren National*
8 *Security Education Act of 1991 (50 U.S.C. 1902(i)) is*
9 *amended by adding at the end the following new paragraph:*
10 *amended by adding at the end the following new paragraph:*

11 *“(5)(A) In the case of an undergraduate or graduate*
12 *student that participates in training in programs under*
13 *paragraph (1), the student shall enter into an agreement*
14 *described in subsection (b), other than such a student who*
15 *has entered into such an agreement pursuant to subpara-*
16 *graph (A)(ii) or (B)(ii) of section 802(a)(1).*

17 *“(B) In the case of an employee of an agency or de-*
18 *partment of the Federal Government that participates in*
19 *training in programs under paragraph (1), the employee*
20 *shall agree in writing—*

21 *“(i) to continue in the service of the agency or*
22 *department of the Federal Government employing the*
23 *employee for the period of such training;*

24 *“(ii) to continue in the service of such agency or*
25 *department employing the employee following comple-*

1 *tion of such training for a period of two years for*
2 *each year, or part of the year, of such training;*

3 *“(iii) to reimburse the United States for the total*
4 *cost of such training (excluding the employee’s pay*
5 *and allowances) provided to the employee if, before*
6 *the completion by the employee of the training, the*
7 *employment of the employee by the agency or depart-*
8 *ment is terminated due to misconduct by the em-*
9 *ployee or by the employee voluntarily; and*

10 *“(iv) to reimburse the United States if, after*
11 *completing such training, the employment of the em-*
12 *ployee by the agency or department is terminated ei-*
13 *ther by the agency or department due to misconduct*
14 *by the employee or by the employee voluntarily, before*
15 *the completion by the employee of the period of service*
16 *required in clause (ii), in an amount that bears the*
17 *same ratio to the total cost of the training (excluding*
18 *the employee’s pay and allowances) provided to the*
19 *employee as the unserved portion of such period of*
20 *service bears to the total period of service under clause*
21 *(ii).*

22 *“(C) Subject to subparagraph (D), the obligation to re-*
23 *imburse the United States under an agreement under sub-*
24 *paragraph (A) is for all purposes a debt owing the United*
25 *States.*

1 “(D) *The head of an element of the intelligence commu-*
2 *nity may release an employee, in whole or in part, from*
3 *the obligation to reimburse the United States under an*
4 *agreement under subparagraph (A) when, in the discretion*
5 *of the head of the element, the head of the element determines*
6 *that equity or the interests of the United States so require.”.*

7 (2) *The amendment made by paragraph (1) shall*
8 *apply to training that begins on or after the date that is*
9 *90 days after the date of the enactment of this Act.*

10 (c) *INCREASE IN THE NUMBER OF PARTICIPATING*
11 *EDUCATIONAL INSTITUTIONS.—The Secretary of Defense*
12 *shall take such steps as the Secretary determines will in-*
13 *crease the number of qualified educational institutions that*
14 *receive grants under the National Flagship Language Ini-*
15 *tiative to establish, operate, or improve activities designed*
16 *to train students in programs in a range of disciplines to*
17 *achieve advanced levels of proficiency in those foreign lan-*
18 *guages that the Secretary identifies as being the most crit-*
19 *ical in the interests of the national security of the United*
20 *States.*

21 (d) *CLARIFICATION OF AUTHORITY TO SUPPORT*
22 *STUDIES ABROAD.—Educational institutions that receive*
23 *grants under the National Flagship Language Initiative*
24 *may support students who pursue total immersion foreign*

1 *language studies overseas of foreign languages that are crit-*
 2 *ical to the national security of the United States.*

3 **SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM**
 4 **FOR ENGLISH LANGUAGE STUDIES FOR HER-**
 5 **ITAGE COMMUNITY CITIZENS OF THE UNITED**
 6 **STATES WITHIN THE NATIONAL SECURITY**
 7 **EDUCATION PROGRAM.**

8 *(a) SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE*
 9 *STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE*
 10 *UNITED STATES.—(1) Subsection (a)(1) of section 802 of*
 11 *the David L. Boren National Security Education Act of*
 12 *1991 (50 U.S.C. 1902) is amended—*

13 *(A) by striking “and” at the end of subpara-*
 14 *graph (C);*

15 *(B) by striking the period at the end of subpara-*
 16 *graph (D) and inserting “; and”; and*

17 *(C) by adding at the end the following new sub-*
 18 *paragraph:*

19 *“(E) awarding scholarships to students*
 20 *who—*

21 *“(i) are United States citizens who—*

22 *“(I) are native speakers (com-*
 23 *monly referred to as heritage commu-*
 24 *nity residents) of a foreign language*
 25 *that is identified as critical to the na-*

1 *tional security interests of the United*
2 *States who should be actively recruited*
3 *for employment by Federal security*
4 *agencies with a need for linguists; and*
5 *“(II) are not proficient at a pro-*
6 *fessional level in the English language*
7 *with respect to reading, writing, and*
8 *interpersonal skills required to carry*
9 *out the national security interests of*
10 *the United States, as determined by the*
11 *Secretary,*
12 *to enable such students to pursue English*
13 *language studies at an institution of higher*
14 *education of the United States to attain*
15 *proficiency in those skills; and*
16 *“(ii) enter into an agreement to work*
17 *in a national security position or work in*
18 *the field of education in the area of study*
19 *for which the scholarship was awarded in a*
20 *similar manner (as determined by the Sec-*
21 *retary) as agreements entered into pursuant*
22 *to subsection (b)(2)(A).”.*
23 *(2) The matter following subsection (a)(2) of such sec-*
24 *tion is amended—*

1 **SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-**
2 **GUAGE AND EDUCATION FOR THE INTEL-**
3 **LIGENCE COMMUNITY; REPORTS.**

4 (a) *SENSE OF CONGRESS.*—*It is the sense of Congress*
5 *that there should be within the Office of the National Intel-*
6 *ligence Director a senior official responsible to assist the*
7 *National Intelligence Director in carrying out the Direc-*
8 *tor’s responsibilities for establishing policies and procedure*
9 *for foreign language education and training of the intel-*
10 *ligence community. The duties of such official should in-*
11 *clude the following:*

12 (1) *Overseeing and coordinating requirements for*
13 *foreign language education and training of the intel-*
14 *ligence community.*

15 (2) *Establishing policy, standards, and priorities*
16 *relating to such requirements.*

17 (3) *Identifying languages that are critical to the*
18 *capability of the intelligence community to carry out*
19 *national security activities of the United States.*

20 (4) *Monitoring the allocation of resources for for-*
21 *oreign language education and training in order to en-*
22 *sure the requirements of the intelligence community*
23 *with respect to foreign language proficiency are met.*

24 (b) *REPORTS.*—*Not later than one year after the date*
25 *of the enactment of this Act, the National Intelligence Direc-*
26 *tor shall submit to Congress the following reports:*

1 (1) *A report that identifies—*

2 (A) *skills and processes involved in learning*
3 *a foreign language; and*

4 (B) *characteristics and teaching techniques*
5 *that are most effective in teaching foreign lan-*
6 *guages.*

7 (2)(A) *A report that identifies foreign language*
8 *heritage communities, particularly such communities*
9 *that include speakers of languages that are critical to*
10 *the national security of the United States.*

11 (B) *For purposes of subparagraph (A), the term*
12 *“foreign language heritage community” means a com-*
13 *munity of residents or citizens of the United States—*

14 (i) *who are native speakers of, or who have*
15 *fluency in, a foreign language; and*

16 (ii) *who should be actively recruited for em-*
17 *ployment by Federal security agencies with a*
18 *need for linguists.*

19 (3) *A report on—*

20 (A) *the estimated cost of establishing a pro-*
21 *gram under which the heads of elements of the*
22 *intelligence community agree to repay employees*
23 *of the intelligence community for any student*
24 *loan taken out by that employee for the study of*

1 *foreign languages critical for the national secu-*
 2 *rity of the United States; and*

3 *(B) the effectiveness of such a program in*
 4 *recruiting and retaining highly qualified per-*
 5 *sonnel in the intelligence community.*

6 **SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-**
 7 **ICAL TO THE INTELLIGENCE COMMUNITY.**

8 *(a) IN GENERAL.—Title X of the National Security*
 9 *Act of 1947 (50 U.S.C.) is amended—*

10 *(1) by inserting before section 1001 (50 U.S.C.*
 11 *441g) the following:*

12 **“Subtitle A—Science and**
 13 **Technology”;**

14 *and*

15 *(2) by adding at the end the following new sub-*
 16 *titles:*

17 **“Subtitle B—Foreign Languages**
 18 **Program**

19 *“PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES*
 20 *CRITICAL TO THE INTELLIGENCE COMMUNITY*

21 *“SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The*
 22 *Secretary of Defense and the National Intelligence Director*
 23 *may jointly establish a program to advance foreign lan-*
 24 *guages skills in languages that are critical to the capability*
 25 *of the intelligence community to carry out national security*

1 *activities of the United States (hereinafter in this subtitle*
2 *referred to as the ‘Foreign Languages Program’).*

3 “(b) *IDENTIFICATION OF REQUISITE ACTIONS.—In*
4 *order to carry out the Foreign Languages Program, the Sec-*
5 *retary of Defense and the National Intelligence Director*
6 *shall jointly determine actions required to improve the edu-*
7 *cation of personnel in the intelligence community in foreign*
8 *languages that are critical to the capability of the intel-*
9 *ligence community to carry out national security activities*
10 *of the United States to meet the long-term intelligence needs*
11 *of the United States.*

12 “*EDUCATION PARTNERSHIPS*

13 “*SEC. 1012. (a) IN GENERAL.—In carrying out the*
14 *Foreign Languages Program, the head of a department or*
15 *agency containing an element of an intelligence community*
16 *entity may enter into one or more education partnership*
17 *agreements with educational institutions in the United*
18 *States in order to encourage and enhance the study of for-*
19 *eign languages that are critical to the capability of the in-*
20 *telligence community to carry out national security activi-*
21 *ties of the United States in educational institutions.*

22 “(b) *ASSISTANCE PROVIDED UNDER EDUCATIONAL*
23 *PARTNERSHIP AGREEMENTS.—Under an educational part-*
24 *nership agreement entered into with an educational institu-*
25 *tion pursuant to this section, the head of an element of an*

1 *intelligence community entity may provide the following*
2 *assistance to the educational institution:*

3 “(1) *The loan of equipment and instructional*
4 *materials of the element of the intelligence community*
5 *entity to the educational institution for any purpose*
6 *and duration that the head determines to be appro-*
7 *priate.*

8 “(2) *Notwithstanding any other provision of law*
9 *relating to transfers of surplus property, the transfer*
10 *to the educational institution of any computer equip-*
11 *ment, or other equipment, that is—*

12 “(A) *commonly used by educational institu-*
13 *tions;*

14 “(B) *surplus to the needs of the entity; and*

15 “(C) *determined by the head of the element*
16 *to be appropriate for support of such agreement.*

17 “(3) *The provision of dedicated personnel to the*
18 *educational institution—*

19 “(A) *to teach courses in foreign languages*
20 *that are critical to the capability of the intel-*
21 *ligence community to carry out national security*
22 *activities of the United States; or*

23 “(B) *to assist in the development of such*
24 *courses and materials for the institution.*

1 “(A) supervise the individual to the same extent
2 as the head of the element would supervise a com-
3 pensated employee of that element providing similar
4 services; and

5 “(B) ensure that the individual is licensed, priv-
6 ileged, has appropriate educational or experiential
7 credentials, or is otherwise qualified under applicable
8 law or regulations to provide such services.

9 “(2) In accepting voluntary services from an indi-
10 vidual under subsection (a), the head of an element of the
11 intelligence community entity may not—

12 “(A) place the individual in a policymaking po-
13 sition, or other position performing inherently gov-
14 ernment functions; or

15 “(B) compensate the individual for the provision
16 of such services.

17 “(c) *AUTHORITY TO RECRUIT AND TRAIN INDIVID-*
18 *UALS PROVIDING SERVICES.*—The head of an element of an
19 intelligence community entity may recruit and train indi-
20 viduals to provide voluntary services accepted under sub-
21 section (a).

22 “(d) *STATUS OF INDIVIDUALS PROVIDING SERV-*
23 *ICES.*—(1) Subject to paragraph (2), while providing vol-
24 untary services accepted under subsection (a) or receiving
25 training under subsection (c), an individual shall be consid-

1 *ered to be an employee of the Federal Government only for*
2 *purposes of the following provisions of law:*

3 “(A) *Section 552a of title 5, United States Code*
4 *(relating to maintenance of records on individuals).*

5 “(B) *Chapter 11 of title 18, United States Code*
6 *(relating to conflicts of interest).*

7 “(2)(A) *With respect to voluntary services accepted*
8 *under paragraph (1) provided by an individual that are*
9 *within the scope of the services so accepted, the individual*
10 *is deemed to be a volunteer of a governmental entity or non-*
11 *profit institution for purposes of the Volunteer Protection*
12 *Act of 1997 (42 U.S.C. 14501 et seq.).*

13 “(B) *In the case of any claim against such an indi-*
14 *vidual with respect to the provision of such services, section*
15 *4(d) of such Act (42 U.S.C. 14503(d)) shall not apply.*

16 “(3) *Acceptance of voluntary services under this sec-*
17 *tion shall have no bearing on the issuance or renewal of*
18 *a security clearance.*

19 “(e) *REIMBURSEMENT OF INCIDENTAL EXPENSES.—*
20 *(1) The head of an element of the intelligence community*
21 *entity may reimburse an individual for incidental expenses*
22 *incurred by the individual in providing voluntary services*
23 *accepted under subsection (a). The head of an element of*
24 *the intelligence community entity shall determine which ex-*
25 *penses are eligible for reimbursement under this subsection.*

1 *citizens (including former civilian employees of the*
 2 *Federal Government who have been voluntarily sepa-*
 3 *rated, and members of the United States Armed*
 4 *Forces who have been honorably discharged or gen-*
 5 *erally discharged under honorable circumstances, and*
 6 *rehired on a voluntary basis specifically to perform*
 7 *the activities authorized under this subtitle).*

8 **“Subtitle C—Additional Education**
 9 **Provisions**

10 “ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL
 11 AS LANGUAGE STUDENTS

12 “SEC. 1021. (a) IN GENERAL.—(1) *The National In-*
 13 *telligence Director, acting through the heads of the elements*
 14 *of the intelligence community, may provide for the assign-*
 15 *ment of military and civilian personnel described in para-*
 16 *graph (2) as students at accredited professional, technical,*
 17 *or other institutions of higher education for training at the*
 18 *graduate or undergraduate level in foreign languages re-*
 19 *quired for the conduct of duties and responsibilities of such*
 20 *positions.*

21 “(2) *Personnel referred to in paragraph (1) are per-*
 22 *sonnel of the elements of the intelligence community who*
 23 *serve in analysts positions in such elements and who re-*
 24 *quire foreign language expertise required for the conduct of*
 25 *duties and responsibilities of such positions.*

1 “(b) *AUTHORITY FOR REIMBURSEMENT OF COSTS OF*
 2 *TUITION AND TRAINING.*—(1) *The Director may reimburse*
 3 *an employee assigned under subsection (a) for the total cost*
 4 *of the training described in subsection (a), including costs*
 5 *of educational and supplementary reading materials.*

6 “(2) *The authority under paragraph (1) shall apply*
 7 *to employees who are assigned on a full-time or part-time*
 8 *basis.*

9 “(3) *Reimbursement under paragraph (1) may be*
 10 *made from appropriated or nonappropriated funds.*

11 “(c) *RELATIONSHIP TO COMPENSATION AS AN ANA-*
 12 *LYST.*—*Reimbursement under this section to an employee*
 13 *who is an analyst is in addition to any benefits, allowances,*
 14 *travels, or other compensation the employee is entitled to*
 15 *by reason of serving in such an analyst position.”.*

16 (b) *CLERICAL AMENDMENT.*—*The table of contents for*
 17 *the National Security Act of 1947 is amended by striking*
 18 *the item relating to section 1001 and inserting the following*
 19 *new items:*

“*Subtitle A—Science and Technology*

“*Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.*

“*Subtitle B—Foreign Languages Program*

“*Sec. 1011. Program on advancement of foreign languages critical to the intelligence community.*

“*Sec. 1012. Education partnerships.*

“*Sec. 1013. Voluntary services.*

“*Sec. 1014. Regulations.*

“*Sec. 1015. Definitions.*

“Subtitle C—Additional Education Provisions

“Sec. 1021. Assignment of intelligence community personnel as language students.”.

1 **SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**
2 **SERVE CORPS.**

3 (a) *PILOT PROJECT.*—*The National Intelligence Direc-*
4 *tor shall conduct a pilot project to establish a Civilian Lin-*
5 *guist Reserve Corps comprised of United States citizens*
6 *with advanced levels of proficiency in foreign languages*
7 *who would be available upon a call of the President to per-*
8 *form such service or duties with respect to such foreign lan-*
9 *guages in the Federal Government as the President may*
10 *specify.*

11 (b) *CONDUCT OF PROJECT.*—*Taking into account the*
12 *findings and recommendations contained in the report re-*
13 *quired under section 325 of the Intelligence Authorization*
14 *Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat.*
15 *2393), in conducting the pilot project under subsection (a)*
16 *the National Intelligence Director shall—*

17 (1) *identify several foreign languages that are*
18 *critical for the national security of the United States;*

19 (2) *identify United States citizens with advanced*
20 *levels of proficiency in those foreign languages who*
21 *would be available to perform the services and duties*
22 *referred to in subsection (a); and*

1 (3) *implement a call for the performance of such*
2 *services and duties.*

3 (c) *DURATION OF PROJECT.*—*The pilot project under*
4 *subsection (a) shall be conducted for a three-year period.*

5 (d) *AUTHORITY TO ENTER INTO CONTRACTS.*—*The*
6 *National Intelligence Director may enter into contracts*
7 *with appropriate agencies or entities to carry out the pilot*
8 *project under subsection (a).*

9 (e) *REPORTS.*—(1) *The National Intelligence Director*
10 *shall submit to Congress an initial and a final report on*
11 *the pilot project conducted under subsection (a).*

12 (2) *Each report required under paragraph (1) shall*
13 *contain information on the operation of the pilot project,*
14 *the success of the pilot project in carrying out the objectives*
15 *of the establishment of a Civilian Linguist Reserve Corps,*
16 *and recommendations for the continuation or expansion of*
17 *the pilot project.*

18 (3) *The final report shall be submitted not later than*
19 *6 months after the completion of the project.*

20 (f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
21 *authorized to be appropriated to the National Intelligence*
22 *Director such sums as are necessary for each of fiscal years*
23 *2005, 2006, and 2007 in order to carry out the pilot project*
24 *under subsection (a).*

1 **SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NA-**
2 **TIONAL VIRTUAL TRANSLATION CENTER.**

3 (a) *IN GENERAL.*—*Title I of the National Security Act*
4 *of 1947 (50 U.S.C. 402 et seq.), as amended by section*
5 *1021(a), is further amended by adding at the end the fol-*
6 *lowing new section:*

7 “*NATIONAL VIRTUAL TRANSLATION CENTER*

8 “*SEC. 120. (a) IN GENERAL.*—*There is an element of*
9 *the intelligence community known as the National Virtual*
10 *Translation Center under the direction of the National In-*
11 *telligence Director.*

12 “(b) *FUNCTION.*—*The National Virtual Translation*
13 *Center shall provide for timely and accurate translations*
14 *of foreign intelligence for all other elements of the intel-*
15 *ligence community.*

16 “(c) *FACILITATING ACCESS TO TRANSLATIONS.*—*In*
17 *order to minimize the need for a central facility for the*
18 *National Virtual Translation Center, the Center shall—*

19 “(1) *use state-of-the-art communications tech-*
20 *nology;*

21 “(2) *integrate existing translation capabilities in*
22 *the intelligence community; and*

23 “(3) *use remote-connection capacities.*

24 “(d) *USE OF SECURE FACILITIES.*—*Personnel of the*
25 *National Virtual Translation Center may carry out duties*
26 *of the Center at any location that—*

1 “(1) *has been certified as a secure facility by an*
2 *agency or department of the United States; and*

3 “(2) *the National Intelligence Director deter-*
4 *mines to be appropriate for such purpose.*”.

5 **(b) CLERICAL AMENDMENT.**—*The table of sections for*
6 *that Act, as amended by section 1021(b), is further amended*
7 *by inserting after the item relating to section 119 the fol-*
8 *lowing new item:*

 “*Sec. 120. National Virtual Translation Center.*”.

9 **SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF**
10 **QUALIFIED INSTRUCTORS OF THE DEFENSE**
11 **LANGUAGE INSTITUTE.**

12 **(a) STUDY.**—*The Secretary of Defense shall conduct a*
13 *study on methods to improve the recruitment and retention*
14 *of qualified foreign language instructors at the Foreign*
15 *Language Center of the Defense Language Institute. In con-*
16 *ducting the study, the Secretary shall consider, in the case*
17 *of a foreign language instructor who is an alien, to expedi-*
18 *tiously adjust the status of the alien from a temporary sta-*
19 *tus to that of an alien lawfully admitted for permanent res-*
20 *idence.*

21 **(b) REPORT.**—*(1) Not later than one year after the*
22 *date of the enactment of this Act, the Secretary of Defense*
23 *shall submit to the appropriate congressional committees a*
24 *report on the study conducted under subsection (a), and*
25 *shall include in that report recommendations for such*

1 *changes in legislation and regulation as the Secretary deter-*
 2 *mines to be appropriate.*

3 (2) *DEFINITION.—In this subsection, the term “appro-*
 4 *priate congressional committees” means the following:*

5 (A) *The Select Committee on Intelligence and the*
 6 *Committee on Armed Services of the Senate.*

7 (B) *The Permanent Select Committee on Intel-*
 8 *ligence and the Committee on Armed Services of the*
 9 *House of Representatives.*

10 ***Subtitle F—Additional Improve-***
 11 ***ments of Intelligence Activities***

12 ***SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-***
 13 ***LIGENCE AGENCY VOLUNTARY SEPARATION***
 14 ***INCENTIVE PROGRAM.***

15 (a) *EXTENSION OF PROGRAM.—Section 2 of the Cen-*
 16 *tral Intelligence Agency Voluntary Separation Pay Act (50*
 17 *U.S.C. 403–4 note) is amended—*

18 (1) *by striking subsection (f); and*

19 (2) *by redesignating subsections (g) and (h) as*
 20 *subsections (f) and (g), respectively.*

21 (b) *TERMINATION OF FUNDS REMITTANCE REQUIRE-*
 22 *MENT.—(1) Section 2 of such Act (50 U.S.C. 403–4 note)*
 23 *is further amended by striking subsection (i).*

24 (2) *Section 4(a)(2)(B)(ii) of the Federal Workforce Re-*
 25 *structuring Act of 1994 (5 U.S.C. 8331 note) is amended*

1 *by striking “, or section 2 of the Central Intelligence Agency*
 2 *Voluntary Separation Pay Act (Public Law 103–36; 107*
 3 *Stat. 104)”.*

4 **SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECH-**
 5 **NOLOGIES PANEL.**

6 *The National Security Agency Act of 1959 (50 U.S.C.*
 7 *402 note) is amended by adding at the end the following*
 8 *new section:*

9 *“SEC. 19. (a) There is established the National Secu-*
 10 *rity Agency Emerging Technologies Panel. The panel is a*
 11 *standing panel of the National Security Agency. The panel*
 12 *shall be appointed by, and shall report directly to, the Di-*
 13 *rector.*

14 *“(b) The National Security Agency Emerging Tech-*
 15 *nologies Panel shall study and assess, and periodically ad-*
 16 *vis the Director on, the research, development, and applica-*
 17 *tion of existing and emerging science and technology ad-*
 18 *vances, advances on encryption, and other topics.*

19 *“(c) The Federal Advisory Committee Act (5 U.S.C.*
 20 *App.) shall not apply with respect to the National Security*
 21 *Agency Emerging Technologies Panel.”.*

22 **SEC. 1063. SERVICE AND NATIONAL LABORATORIES AND**
 23 **THE INTELLIGENCE COMMUNITY.**

24 *The National Intelligence Director, in cooperation*
 25 *with the Secretary of Defense and the Secretary of Energy,*

1 *should seek to ensure that each service laboratory of the De-*
 2 *partment of Defense and each national laboratory of the*
 3 *Department of Energy may, acting through the relevant*
 4 *Secretary and in a manner consistent with the missions*
 5 *and commitments of the laboratory—*

6 (1) *assist the National Intelligence Director in*
 7 *all aspects of technical intelligence, including re-*
 8 *search, applied sciences, analysis, technology evalua-*
 9 *tion and assessment, and any other aspect that the*
 10 *relevant Secretary considers appropriate; and*

11 (2) *make available to the intelligence commu-*
 12 *nity, on a community-wide basis—*

13 (A) *the analysis and production services of*
 14 *the service and national laboratories, in a man-*
 15 *ner that maximizes the capacity and services of*
 16 *such laboratories; and*

17 (B) *the facilities and human resources of*
 18 *the service and national laboratories, in a man-*
 19 *ner that improves the technological capabilities*
 20 *of the intelligence community.*

21 **SEC. 1064. IMPROVEMENT IN TRANSLATION AND DELIVERY**
 22 **OF SUSPECTED TERRORIST COMMUNICA-**
 23 **TIONS.**

24 (a) *REQUIREMENT FOR PROMPT TRANSLATION AND*
 25 *TRANSMISSION.—The National Intelligence Director shall*

1 *develop and transmit to the appropriate agencies guidelines*
2 *to ensure that all suspected terrorist communications, in-*
3 *cluding transmissions, are translated and delivered in a*
4 *manner consistent with timelines contained in regulations*
5 *of the Federal Bureau of Investigations to the extent prac-*
6 *ticable.*

7 **(b) PREVENTION OF DELETION OF TERRORIST COM-**
8 *MUNICATIONS.—The National Intelligence Director shall*
9 *take such steps as are necessary to ensure that terrorist com-*
10 *munications are not deleted or discarded before those com-*
11 *munications are translated.*

12 **SEC. 1065. SENSE OF CONGRESS AND REPORT REGARDING**
13 **OPEN SOURCE INTELLIGENCE.**

14 **(a) SENSE OF CONGRESS.—It is the sense of Congress**
15 *that—*

16 **(1) the National Intelligence Director should es-**
17 *tablish an intelligence center for the purpose of co-*
18 *ordinating the collection, analysis, production, and*
19 *dissemination of open source intelligence to elements*
20 *of the intelligence community;*

21 **(2) open source intelligence is a valuable source**
22 *that must be integrated into the intelligence cycle to*
23 *ensure that United States policymakers are fully and*
24 *completely informed; and*

- 1 (A) *Section 3(5)(B) (50 U.S.C. 401a(5)(B)).*
- 2 (B) *Section 101(h)(2)(A) (50 U.S.C.*
3 *402(h)(2)(A)).*
- 4 (C) *Section 101(h)(5) (50 U.S.C. 402(h)(5)).*
- 5 (D) *Section 101(i)(2)(A) (50 U.S.C.*
6 *402(i)(2)(A)).*
- 7 (E) *Section 101(j) (50 U.S.C. 402(j)).*
- 8 (F) *Section 105(a) (50 U.S.C. 403–5(a)).*
- 9 (G) *Section 105(b)(6)(A) (50 U.S.C. 403–*
10 *5(b)(6)(A)).*
- 11 (H) *Section 105B(a)(1) (50 U.S.C. 403–*
12 *5b(a)(1)).*
- 13 (I) *Section 105B(b) (50 U.S.C. 403–5b(b)), the*
14 *first place it appears.*
- 15 (J) *Section 110(b) (50 U.S.C. 404e(b)).*
- 16 (K) *Section 110(c) (50 U.S.C. 404e(c)).*
- 17 (L) *Section 112(a)(1) (50 U.S.C. 404g(a)(1)).*
- 18 (M) *Section 112(d)(1) (50 U.S.C. 404g(d)(1)).*
- 19 (N) *Section 113(b)(2)(A) (50 U.S.C.*
20 *404h(b)(2)(A)).*
- 21 (O) *Section 114(a)(1) (50 U.S.C. 404i(a)(1)).*
- 22 (P) *Section 114(b)(1) (50 U.S.C. 404i(b)(1)).*
- 23 (R) *Section 115(a)(1) (50 U.S.C. 404j(a)(1)).*
- 24 (S) *Section 115(b) (50 U.S.C. 404j(b)).*

1 (T) Section 115(c)(1)(B) (50 U.S.C.
2 404j(c)(1)(B)).

3 (U) Section 116(a) (50 U.S.C. 404k(a)).

4 (V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).

5 (W) Section 303(a) (50 U.S.C. 405(a)), both
6 places it appears.

7 (X) Section 501(d) (50 U.S.C. 413(d)).

8 (Y) Section 502(a) (50 U.S.C. 413a(a)).

9 (Z) Section 502(c) (50 U.S.C. 413a(c)).

10 (AA) Section 503(b) (50 U.S.C. 413b(b)).

11 (BB) Section 504(a)(3)(C) (50 U.S.C.
12 414(a)(3)(C)).

13 (CC) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

14 (DD) Section 506A(a)(1) (50 U.S.C. 415a-
15 1(a)(1)).

16 (EE) Section 603(a) (50 U.S.C. 423(a)).

17 (FF) Section 702(a)(1) (50 U.S.C. 432(a)(1)).

18 (GG) Section 702(a)(6)(B)(viii) (50 U.S.C.
19 432(a)(6)(B)(viii)).

20 (HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)),
21 both places it appears.

22 (II) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).

23 (JJ) Section 703(a)(6)(B)(viii) (50 U.S.C.
24 432a(a)(6)(B)(viii)).

1 (KK) Section 703(b)(1) (50 U.S.C. 432a(b)(1)),
2 *both places it appears.*

3 (LL) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).

4 (MM) Section 704(f)(2)(H) (50 U.S.C.
5 432b(f)(2)(H)).

6 (NN) Section 704(g)(1) (50 U.S.C. 432b(g)(1)),
7 *both places it appears.*

8 (OO) Section 1001(a) (50 U.S.C. 441g(a)).

9 (PP) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).

10 (QQ) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).

11 (RR) Section 1102(c)(1) (50 U.S.C. 442a(c)(1)).

12 (SS) Section 1102(d) (50 U.S.C. 442a(d)).

13 (2) *That Act is further amended by striking “of Cen-*
14 *tral Intelligence” each place it appears in the following pro-*
15 *visions:*

16 (A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).

17 (B) Section 105B(a)(2) (50 U.S.C. 403–
18 5b(a)(2)).

19 (C) Section 105B(b) (50 U.S.C. 403–5b(b)), *the*
20 *second place it appears.*

21 (3) *That Act is further amended by striking “Director”*
22 *each place it appears in the following provisions and insert-*
23 *ing “National Intelligence Director”:*

24 (A) Section 114(c) (50 U.S.C. 404i(c)).

25 (B) Section 116(b) (50 U.S.C. 404k(b)).

1 (C) Section 1001(b) (50 U.S.C. 441g(b)).

2 (C) Section 1001(c) (50 U.S.C. 441g(c)), the first
3 place it appears.

4 (D) Section 1001(d)(1)(B) (50 U.S.C.
5 441g(d)(1)(B)).

6 (E) Section 1001(e) (50 U.S.C. 441g(e)), the first
7 place it appears.

8 (4) Section 114A of that Act (50 U.S.C. 404i-1) is
9 amended by striking “Director of Central Intelligence” and
10 inserting “National Intelligence Director, the Director of
11 the Central Intelligence Agency”

12 (5) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2))
13 is amended by striking “Director of Central Intelligence”
14 and inserting “Director of the Central Intelligence Agency”.

15 (6) Section 701 of that Act (50 U.S.C. 431) is
16 amended—

17 (A) in subsection (a), by striking “Operational
18 files of the Central Intelligence Agency may be ex-
19 empted by the Director of Central Intelligence” and
20 inserting “The Director of the Central Intelligence
21 Agency, with the coordination of the National Intel-
22 ligence Director, may exempt operational files of the
23 Central Intelligence Agency”; and

24 (B) in subsection (g)(1), by striking “Director of
25 Central Intelligence” and inserting “Director of the

1 (B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).

2 (C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)), both
3 places it appears.

4 (D) Section 21(g)(1) (50 U.S.C. 403u(g)(1)).

5 (E) Section 21(g)(2) (50 U.S.C. 403u(g)(2)).

6 (c) *CENTRAL INTELLIGENCE AGENCY RETIREMENT*
7 *ACT*.—Section 101 of the Central Intelligence Agency Re-
8 *tirement Act* (50 U.S.C. 2001) is amended by striking para-
9 *graph* (2) and inserting the following new paragraph (2):

10 “(2) *DIRECTOR*.—The term ‘Director’ means the
11 *Director of the Central Intelligence Agency*.”.

12 (d) *CIA VOLUNTARY SEPARATION PAY ACT*.—Sub-
13 *section* (a)(1) of section 2 of the Central Intelligence Agency
14 *Voluntary Separation Pay Act* (50 U.S.C. 2001 note) is
15 *amended to read as follows*:

16 “(1) the term ‘Director’ means the Director of the
17 *Central Intelligence Agency*;”.

18 (e) *FOREIGN INTELLIGENCE SURVEILLANCE ACT OF*
19 *1978*.—(1) *The Foreign Intelligence Surveillance Act of*
20 *1978* (50 U.S.C. 1801 *et seq.*) is amended by striking “*Di-*
21 *rector of Central Intelligence*” each place it appears and
22 *inserting* “*National Intelligence Director*”.

23 (f) *CLASSIFIED INFORMATION PROCEDURES ACT*.—
24 *Section 9(a) of the Classified Information Procedures Act*
25 *(5 U.S.C. App.) is amended by striking* “*Director of Central*

1 *Intelligence” and inserting “National Intelligence Direc-*
2 *tor”.*

3 *(g) INTELLIGENCE AUTHORIZATION ACTS.—*

4 *(1) PUBLIC LAW 103–359.—Section 811(c)(6)(C)*
5 *of the Counterintelligence and Security Enhancements*
6 *Act of 1994 (title VIII of Public Law 103–359) is*
7 *amended by striking “Director of Central Intel-*
8 *ligence” and inserting “National Intelligence Direc-*
9 *tor”.*

10 *(2) PUBLIC LAW 107–306.—(A) The Intelligence*
11 *Authorization Act for Fiscal Year 2003 (Public Law*
12 *107–306) is amended by striking “Director of Central*
13 *Intelligence, acting as the head of the intelligence*
14 *community,” each place it appears in the following*
15 *provisions and inserting “National Intelligence Direc-*
16 *tor”:*

17 *(i) Section 313(a) (50 U.S.C. 404n(a)).*

18 *(ii) Section 343(a)(1) (50 U.S.C. 404n–*
19 *2(a)(1))*

20 *(B) That Act is further amended by striking*
21 *“Director of Central Intelligence” each place it ap-*
22 *pears in the following provisions and inserting “Na-*
23 *tional Intelligence Director”:*

24 *(i) Section 902(a)(2) (50 U.S.C.*
25 *402b(a)(2)).*

1 (ii) Section 904(e)(4) (50 U.S.C.
2 402c(e)(4)).

3 (iii) Section 904(e)(5) (50 U.S.C.
4 402c(e)(5)).

5 (iv) Section 904(h) (50 U.S.C. 402c(h)),
6 each place it appears.

7 (v) Section 904(m) (50 U.S.C. 402c(m)).

8 (C) Section 341 of that Act (50 U.S.C. 404n-1)
9 is amended by striking “Director of Central Intel-
10 ligence, acting as the head of the intelligence commu-
11 nity, shall establish in the Central Intelligence Agen-
12 cy” and inserting “National Intelligence Director
13 shall establish within the Central Intelligence Agen-
14 cy”.

15 (D) Section 352(b) of that Act (50 U.S.C. 404-
16 3 note) is amended by striking “Director” and insert-
17 ing “National Intelligence Director”.

18 (3) PUBLIC LAW 108-177.—(A) The Intelligence
19 Authorization Act for Fiscal Year 2004 (Public Law
20 108-177) is amended by striking “Director of Central
21 Intelligence” each place it appears in the following
22 provisions and inserting “National Intelligence Direc-
23 tor”:

24 (i) Section 317(a) (50 U.S.C. 403-3 note).

25 (ii) Section 317(h)(1).

1 (iii) Section 318(a) (50 U.S.C. 441g note).

2 (iv) Section 319(b) (50 U.S.C. 403 note).

3 (v) Section 341(b) (28 U.S.C. 519 note).

4 (vi) Section 357(a) (50 U.S.C. 403 note).

5 (vii) Section 504(a) (117 Stat. 2634), both
6 places it appears.

7 (B) Section 319(f)(2) of that Act (50 U.S.C. 403
8 note) is amended by striking “Director” the first
9 place it appears and inserting “National Intelligence
10 Director”.

11 (C) Section 404 of that Act (18 U.S.C. 4124
12 note) is amended by striking “Director of Central In-
13 telligence” and inserting “Director of the Central In-
14 telligence Agency”.

15 **SEC. 1072. OTHER CONFORMING AMENDMENTS**

16 (a) NATIONAL SECURITY ACT OF 1947.—(1) Section
17 101(j) of the National Security Act of 1947 (50 U.S.C.
18 402(j)) is amended by striking “Deputy Director of Central
19 Intelligence” and inserting “Deputy National Intelligence
20 Director”.

21 (2) Section 112(d)(1) of that Act (50 U.S.C.
22 404g(d)(1)) is amended by striking “section 103(c)(6) of
23 this Act” and inserting “section 102A(g) of this Act”.

24 (3) Section 116(b) of that Act (50 U.S.C. 404k(b)) is
25 amended by striking “to the Deputy Director of Central In-

1 *telligence, or with respect to employees of the Central Intel-*
2 *ligence Agency, the Director may delegate such authority*
3 *to the Deputy Director for Operations” and inserting “to*
4 *the Deputy National Intelligence Director, or with respect*
5 *to employees of the Central Intelligence Agency, to the Di-*
6 *rector of the Central Intelligence Agency”.*

7 (4) *Section 506A(b)(1) of that Act (50 U.S.C. 415a-*
8 *1(b)(1)) is amended by striking “Office of the Deputy Direc-*
9 *tor of Central Intelligence” and inserting “Office of the Na-*
10 *tional Intelligence Director”.*

11 (5) *Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3))*
12 *is amended by striking “Office of the Director of Central*
13 *Intelligence” and inserting “Office of the National Intel-*
14 *ligence Director”.*

15 (6) *Section 1001(b) of that Act (50 U.S.C. 441g(b))*
16 *is amended by striking “Assistant Director of Central Intel-*
17 *ligence for Administration” and inserting “Office of the Na-*
18 *tional Intelligence Director”.*

19 (b) *CENTRAL INTELLIGENCE ACT OF 1949.—Section*
20 *6 of the Central Intelligence Agency Act of 1949 (50 U.S.C.*
21 *403g) is amended by striking “section 103(c)(7) of the Na-*
22 *tional Security Act of 1947 (50 U.S.C. 403–3(c)(7))” and*
23 *inserting “section 102A(g) of the National Security Act of*
24 *1947”.*

1 (c) *CENTRAL INTELLIGENCE AGENCY RETIREMENT*
2 *ACT.*—Section 201(c) of the Central Intelligence Agency Re-
3 *tirement Act (50 U.S.C. 2011(c)) is amended by striking*
4 *“paragraph (6) of section 103(c) of the National Security*
5 *Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Cen-*
6 *tral Intelligence” and inserting “section 102A(g) of the Na-*
7 *tional Security Act of 1947 (50 U.S.C. 403–3(c)(1)) that*
8 *the National Intelligence Director”.*

9 (d) *INTELLIGENCE AUTHORIZATION ACTS.*—

10 (1) *PUBLIC LAW 107–306.*—(A) Section 343(c) of
11 *the Intelligence Authorization Act for Fiscal Year*
12 *2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is*
13 *amended by striking “section 103(c)(6) of the Na-*
14 *tional Security Act of 1947 (50 U.S.C. 403–3((c)(6))”*
15 *and inserting “section 102A(g) of the National Secu-*
16 *rity Act of 1947 (50 U.S.C. 403–3(c)(1))”.*

17 (B) Section 904 of that Act (50 U.S.C. 402c) is
18 *amended—*

19 (i) *in subsection (c), by striking “Office of*
20 *the Director of Central Intelligence” and insert-*
21 *ing “Office of the National Intelligence Direc-*
22 *tor”;* and

23 (ii) *in subsection (l), by striking “Office of*
24 *the Director of Central Intelligence” and insert-*

1 ing “Office of the National Intelligence Direc-
2 tor”.

3 (2) *PUBLIC LAW 108–177.*—Section 317 of the In-
4 telligence Authorization Act for Fiscal Year 2004
5 (Public Law 108–177; 50 U.S.C. 403–3 note) is
6 amended—

7 (A) in subsection (g), by striking “Assistant
8 Director of Central Intelligence for Analysis and
9 Production” and inserting “Deputy National In-
10 telligence Director”; and

11 (B) in subsection (h)(2)(C), by striking “As-
12 sistant Director” and inserting “Deputy Na-
13 tional Intelligence Director”.

14 **SEC. 1073. ELEMENTS OF INTELLIGENCE COMMUNITY**
15 **UNDER NATIONAL SECURITY ACT OF 1947.**

16 Paragraph (4) of section 3 of the National Security
17 Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

18 “(4) The term ‘intelligence community’ includes
19 the following:

20 “(A) The Office of the National Intelligence
21 Director.

22 “(B) The Central Intelligence Agency.

23 “(C) The National Security Agency.

24 “(D) The Defense Intelligence Agency.

1 “(E) *The National Geospatial-Intelligence*
2 *Agency.*”

3 “(F) *The National Reconnaissance Office.*”

4 “(G) *Other offices within the Department of*
5 *Defense for the collection of specialized national*
6 *intelligence through reconnaissance programs.*”

7 “(H) *The intelligence elements of the Army,*
8 *the Navy, the Air Force, the Marine Corps, the*
9 *Federal Bureau of Investigation, and the De-*
10 *partment of Energy.*”

11 “(I) *The Bureau of Intelligence and Re-*
12 *search of the Department of State.*”

13 “(J) *The Office of Intelligence and Analysis*
14 *of the Department of the Treasury.*”

15 “(K) *The elements of the Department of*
16 *Homeland Security concerned with the analysis*
17 *of intelligence information, including the Office*
18 *of Intelligence of the Coast Guard.*”

19 “(L) *Such other elements of any other de-*
20 *partment or agency as may be designated by the*
21 *President, or designated jointly by the National*
22 *Intelligence Director and the head of the depart-*
23 *ment or agency concerned, as an element of the*
24 *intelligence community.”.*”

1 **SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTEL-**
2 **LIGENCE PROGRAM AS NATIONAL INTEL-**
3 **LIGENCE PROGRAM.**

4 (a) *REDESIGNATION.*—Paragraph (6) of section 3 of
5 the National Security Act of 1947 (50 U.S.C. 401a) is
6 amended by striking “Foreign”.

7 (b) *CONFORMING AMENDMENTS.*—(1) Section 506(a)
8 of the National Security Act of 1947 (50 U.S.C. 415a(a))
9 is amended by striking “National Foreign Intelligence Pro-
10 gram” and inserting “National Intelligence Program”.

11 (2) Section 17(f) of the Central Intelligence Agency Act
12 of 1949 (50 U.S.C. 403q(f)) is amended by striking “Na-
13 tional Foreign Intelligence Program” and inserting “Na-
14 tional Intelligence Program”.

15 (c) *HEADING AMENDMENT.*—The heading of section
16 506 of that Act is amended by striking “FOREIGN”.

17 **SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.**

18 (a) *APPOINTMENT OF CERTAIN INTELLIGENCE OFFI-*
19 *CIALS.*—Section 106 of the National Security Act of 1947
20 (50 U.S.C. 403–6) is repealed.

21 (b) *COLLECTION TASKING AUTHORITY.*—Section 111
22 of the National Security Act of 1947 (50 U.S.C. 404f) is
23 repealed.

1 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECUR-**
 2 **RITY ACT OF 1947.**

3 *The table of contents for the National Security Act of*
 4 *1947 is amended—*

5 *(1) by striking the items relating to sections 102*
 6 *through 104 and inserting the following new items:*

“Sec. 102. National Intelligence Director.

“Sec. 102A. Responsibilities and authorities of National Intelligence Director.

“Sec. 103. Office of the National Intelligence Director.

“Sec. 104. Central Intelligence Agency.

“Sec. 104A. Director of the Central Intelligence Agency.”; and

7 *(2) by striking the item relating to section 114*
 8 *and inserting the following new item:*

“Sec. 114. Additional annual reports from the National Intelligence Director.”;

9 *and*

10 *(3) by striking the item relating to section 506*
 11 *and inserting the following new item:*

*“Sec. 506. Specificity of National Intelligence Program budget amounts for
 counterterrorism, counterproliferation, counternarcotics, and
 counterintelligence”.*

12 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO PRO-**
 13 **HIBITING DUAL SERVICE OF THE DIRECTOR**
 14 **OF THE CENTRAL INTELLIGENCE AGENCY.**

15 *Section 1 of the Central Intelligence Agency Act of*
 16 *1949 (50 U.S.C. 403a) is amended—*

17 *(1) by redesignating paragraphs (a), (b), and (c)*
 18 *as paragraphs (1), (2), and (3), respectively; and*

19 *(2) by striking paragraph (2), as so redesign-*
 20 *ated, and inserting the following new paragraph (2):*

1 “(2) ‘Director’ means the Director of the Central Intel-
2 ligence Agency; and”.

3 **SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTECTIONS.**

4 Section 17(a)(1) of the Central Intelligence Agency Act
5 of 1949 (50 U.S.C. 403q(a)(1)) is amended by inserting be-
6 fore the semicolon at the end the following: “and to pro-
7 grams and operations of the Office of the National Intel-
8 ligence Director”.

9 **SEC. 1079. GENERAL REFERENCES.**

10 (a) *DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD*
11 *OF INTELLIGENCE COMMUNITY.*—Any reference to the Di-
12 rector of Central Intelligence or the Director of the Central
13 Intelligence Agency in the Director’s capacity as the head
14 of the intelligence community in any law, regulation, docu-
15 ment, paper, or other record of the United States shall be
16 deemed to be a reference to the National Intelligence Direc-
17 tor.

18 (b) *DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD*
19 *OF CIA.*—Any reference to the Director of Central Intel-
20 ligence or the Director of the Central Intelligence Agency
21 in the Director’s capacity as the head of the Central Intel-
22 ligence Agency in any law, regulation, document, paper,
23 or other record of the United States shall be deemed to be
24 a reference to the Director of the Central Intelligence Agen-
25 cy.

1 (c) *COMMUNITY MANAGEMENT STAFF*.—Any reference
 2 to the Community Management Staff in any law, regula-
 3 tion, document, paper, or other record of the United States
 4 shall be deemed to be a reference to the staff of the Office
 5 of the National Intelligence Director.

6 **SEC. 1080. APPLICATION OF OTHER LAWS.**

7 (a) *POLITICAL SERVICE OF PERSONNEL*.—Section
 8 7323(b)(2)(B)(i) of title 5, United States Code, is
 9 amended—

10 (1) in subclause (XII), by striking “or” at the
 11 end; and

12 (2) by inserting after subclause (XIII) the fol-
 13 lowing new subclause:

14 “(XIV) the Office of the National Intel-
 15 ligence Director; or”.

16 (b) *DELETION OF INFORMATION ABOUT FOREIGN*
 17 *GIFTS*.—Section 7342(f)(4) of title 5, United States Code,
 18 is amended—

19 (1) by inserting “(A)” after “(4)”;

20 (2) in subparagraph (A), as so designated, by
 21 striking “the Director of Central Intelligence” and in-
 22 serting “the Director of the Central Intelligence Agen-
 23 cy”; and

24 (3) by adding at the end the following new sub-
 25 paragraph:

1 “(B) *In transmitting such listings for the Office of the*
 2 *National Intelligence Director, the National Intelligence Di-*
 3 *rector may delete the information described in subpara-*
 4 *graphs (A) and (C) of paragraphs (2) and (3) if the Direc-*
 5 *tor certifies in writing to the Secretary of State that the*
 6 *publication of such information could adversely affect*
 7 *United States intelligence sources.”.*

8 (c) *EXEMPTION FROM FINANCIAL DISCLOSURES.—Sec-*
 9 *tion 105(a)(1) of the Ethics in Government Act (5 U.S.C.*
 10 *App.) is amended by inserting “the Office of the National*
 11 *Intelligence Director,” before “the Central Intelligence*
 12 *Agency”.*

13 ***Subtitle H—Transfer, Termination,***
 14 ***Transition and Other Provisions***

15 ***SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.***

16 (a) *TRANSFER.—There shall be transferred to the Of-*
 17 *fice of the National Intelligence Director the staff of the*
 18 *Community Management Staff as of the date of the enact-*
 19 *ment of this Act, including all functions and activities dis-*
 20 *charged by the Community Management Staff as of that*
 21 *date.*

22 (b) *ADMINISTRATION.—The National Intelligence Di-*
 23 *rector shall administer the Community Management Staff*
 24 *after the date of the enactment of this Act as a component*
 25 *of the Office of the National Intelligence Director under sec-*

1 *tion 103(b) of the National Security Act of 1947, as amend-*
2 *ed by section 1011(a).*

3 **SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-**
4 **TION CENTER.**

5 (a) *TRANSFER.*—*There shall be transferred to the Na-*
6 *tional Counterterrorism Center the Terrorist Threat Inte-*
7 *gration Center (TTIC), including all functions and activi-*
8 *ties discharged by the Terrorist Threat Integration Center*
9 *as of the date of the enactment of this Act.*

10 (b) *ADMINISTRATION.*—*The Director of the National*
11 *Counterterrorism Center shall administer the Terrorist*
12 *Threat Integration Center after the date of the enactment*
13 *of this Act as a component of the Directorate of Intelligence*
14 *of the National Counterterrorism Center under section*
15 *119(i) of the National Security Act of 1947, as added by*
16 *section 1021(a).*

17 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-**
18 **RECTORS OF CENTRAL INTELLIGENCE.**

19 (a) *TERMINATION.*—*The positions within the Central*
20 *Intelligence Agency referred to in subsection (b) are hereby*
21 *abolished.*

22 (b) *COVERED POSITIONS.*—*The positions within the*
23 *Central Intelligence Agency referred to in this subsection*
24 *are as follows:*

1 (1) *The Assistant Director of Central Intelligence*
2 *for Collection.*

3 (2) *The Assistant Director of Central Intelligence*
4 *for Analysis and Production.*

5 (3) *The Assistant Director of Central Intelligence*
6 *for Administration.*

7 **SEC. 1094. IMPLEMENTATION PLAN.**

8 (a) *SUBMISSION OF PLAN.*—*The President shall trans-*
9 *mit to Congress a plan for the implementation of this title*
10 *and the amendments made by this title. The plan shall ad-*
11 *dress, at a minimum, the following:*

12 (1) *The transfer of personnel, assets, and obliga-*
13 *tions to the National Intelligence Director pursuant*
14 *to this title.*

15 (2) *Any consolidation, reorganization, or stream-*
16 *lining of activities transferred to the National Intel-*
17 *ligence Director pursuant to this title.*

18 (3) *The establishment of offices within the Office*
19 *of the National Intelligence Director to implement the*
20 *duties and responsibilities of the National Intelligence*
21 *Director as described in this title.*

22 (4) *Specification of any proposed disposition of*
23 *property, facilities, contracts, records, and other assets*
24 *and obligations to be transferred to the National In-*
25 *telligence Director.*

1 (5) *Recommendations for additional legislative*
2 *or administrative action as the Director considers ap-*
3 *propriate.*

4 (b) *SENSE OF CONGRESS.—It is the sense of Congress*
5 *that the permanent location for the headquarters for the Of-*
6 *fice of the National Intelligence Director, should be at a lo-*
7 *cation other than the George Bush Center for Intelligence*
8 *in Langley, Virginia.*

9 **SEC. 1095. TRANSITIONAL AUTHORITIES.**

10 *Upon the request of the National Intelligence Director,*
11 *the head of any executive agency may, on a reimbursable*
12 *basis, provide services or detail personnel to the National*
13 *Intelligence Director.*

14 **SEC. 1096. EFFECTIVE DATES.**

15 (a) *IN GENERAL.—Except as otherwise expressly pro-*
16 *vided in this Act, this title and the amendments made by*
17 *this title shall take effect on the date of the enactment of*
18 *this Act.*

19 (b) *SPECIFIC EFFECTIVE DATES.—(1)(A) Not later*
20 *than 60 days after the date of the enactment of this Act,*
21 *the National Intelligence Director shall first appoint indi-*
22 *viduals to positions within the Office of the National Intel-*
23 *ligence Director.*

24 (B) *Subparagraph (A) shall not apply with respect to*
25 *the Deputy National Intelligence Director.*

1 (2) *Not later than 180 days after the date of the enact-*
 2 *ment of this Act, the President shall transmit to Congress*
 3 *the implementation plan required under section 1904.*

4 (3) *Not later than one year after the date of the enact-*
 5 *ment of this Act, the National Intelligence Director shall*
 6 *prescribe regulations, policies, procedures, standards, and*
 7 *guidelines required under section 102A of the National Se-*
 8 *curity Act of 1947, as amended by section 1011(a).*

9 ***Subtitle I—Other Matters***

10 ***SEC. 1101. STUDY OF PROMOTION AND PROFESSIONAL***
 11 ***MILITARY EDUCATION SCHOOL SELECTION***
 12 ***RATES FOR MILITARY INTELLIGENCE OFFI-***
 13 ***CERS.***

14 (a) *STUDY.*—*The Secretary of Defense shall conduct a*
 15 *study of the promotion selection rates, and the selection*
 16 *rates for attendance at professional military education*
 17 *schools, of intelligence officers of the Armed Forces, particu-*
 18 *larly in comparison to the rates for other officers of the same*
 19 *Armed Force who are in the same grade and competitive*
 20 *category.*

21 (b) *REPORT.*—*The Secretary shall submit to the Com-*
 22 *mittees on Armed Services of the Senate and House of Rep-*
 23 *resentatives a report providing the Secretary’s findings re-*
 24 *sulting from the study under subsection (a) and the Sec-*
 25 *retary’s recommendations (if any) for such changes in law*

1 *as the Secretary considers needed to ensure that intelligence*
 2 *officers, as a group, are selected for promotion, and for at-*
 3 *tendance at professional military education schools, at rates*
 4 *not less than the rates for all line (or the equivalent) officers*
 5 *of the same Armed Force (both in the zone and below the*
 6 *zone) in the same grade. The report shall be submitted not*
 7 *later than April 1, 2005.*

8 ***TITLE II—TERRORISM PREVEN-***
 9 ***TION AND PROSECUTION***

10 ***Subtitle A—Individual Terrorists as***
 11 ***Agents of Foreign Powers***

12 ***SEC. 2001. INDIVIDUAL TERRORISTS AS AGENTS OF FOR-***
 13 ***EIGN POWERS.***

14 *(a) IN GENERAL.—Section 101(b)(1) of the Foreign*
 15 *Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1))*
 16 *is amended by adding at the end the following new subpara-*
 17 *graph:*

18 *“(C) engages in international terrorism or*
 19 *activities in preparation therefor; or”.*

20 *(b) SUNSET.—The amendment made by subsection (a)*
 21 *shall be subject to the sunset provision in section 224 of*
 22 *Public Law 107–56 (115 Stat. 295), including the exception*
 23 *provided in subsection (b) of such section 224.*

1 ***Subtitle B—Stop Terrorist and***
2 ***Military Hoaxes Act of 2004***

3 **SEC. 2021. SHORT TITLE.**

4 *This subtitle may be cited as the “Stop Terrorist and*
5 *Military Hoaxes Act of 2004”.*

6 **SEC. 2022. HOAXES AND RECOVERY COSTS.**

7 *(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18,*
8 *United States Code, is amended by inserting after section*
9 *1037 the following:*

10 **“§ 1038. False information and hoaxes**

11 *“(a) CRIMINAL VIOLATION.—*

12 *“(1) IN GENERAL.—Whoever engages in any con-*
13 *duct with intent to convey false or misleading infor-*
14 *mation under circumstances where such information*
15 *may reasonably be believed and where such informa-*
16 *tion indicates that an activity has taken, is taking,*
17 *or will take place that would constitute a violation of*
18 *chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this*
19 *title, section 236 of the Atomic Energy Act of 1954*
20 *(42 U.S.C. 2284), or section 46502, the second sen-*
21 *tence of section 46504, section 46505 (b)(3) or (c), sec-*
22 *tion 46506 if homicide or attempted homicide is in-*
23 *volved, or section 60123(b) of title 49 shall—*

24 *“(A) be fined under this title or imprisoned*
25 *not more than 5 years, or both;*

1 “(B) if serious bodily injury results, be
2 fined under this title or imprisoned not more
3 than 25 years, or both; and

4 “(C) if death results, be fined under this
5 title or imprisoned for any number of years up
6 to life, or both.

7 “(2) *ARMED FORCES*.—Whoever, without lawful
8 authority, makes a false statement, with intent to
9 convey false or misleading information, about the
10 death, injury, capture, or disappearance of a member
11 of the Armed Forces of the United States during a
12 war or armed conflict in which the United States is
13 engaged, shall—

14 “(A) be fined under this title or imprisoned
15 not more than 5 years, or both;

16 “(B) if serious bodily injury results, be
17 fined under this title or imprisoned not more
18 than 25 years, or both; and

19 “(C) if death results, be fined under this
20 title or imprisoned for any number of years up
21 to life, or both.

22 “(b) *CIVIL ACTION*.—Whoever knowingly engages in
23 any conduct with intent to convey false or misleading infor-
24 mation under circumstances where such information may
25 reasonably be believed and where such information indi-

1 *cates that an activity has taken, is taking, or will take place*
2 *that would constitute a violation of chapter 2, 10, 11B, 39,*
3 *40, 44, 111, or 113B of this title, section 236 of the Atomic*
4 *Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the*
5 *second sentence of section 46504, section 46505 (b)(3) or*
6 *(c), section 46506 if homicide or attempted homicide is in-*
7 *volved, or section 60123(b) of title 49 is liable in a civil*
8 *action to any party incurring expenses incident to any*
9 *emergency or investigative response to that conduct, for*
10 *those expenses.*

11 *“(c) REIMBURSEMENT.—*

12 *“(1) IN GENERAL.—The court, in imposing a*
13 *sentence on a defendant who has been convicted of an*
14 *offense under subsection (a), shall order the defendant*
15 *to reimburse any state or local government, or private*
16 *not-for-profit organization that provides fire or rescue*
17 *service incurring expenses incident to any emergency*
18 *or investigative response to that conduct, for those ex-*
19 *penses.*

20 *“(2) LIABILITY.—A person ordered to make re-*
21 *imbursement under this subsection shall be jointly*
22 *and severally liable for such expenses with each other*
23 *person, if any, who is ordered to make reimbursement*
24 *under this subsection for the same expenses.*

1 *tencing Commission shall amend the Sentencing Guidelines*
2 *to provide for an increased offense level for an offense under*
3 *sections 1001(a) and 1505 of title 18, United States Code,*
4 *if the offense involves a matter relating to international or*
5 *domestic terrorism, as defined in section 2331 of such title.*

6 **SEC. 2024. CLARIFICATION OF DEFINITION.**

7 *Section 1958 of title 18, United States Code, is*
8 *amended—*

9 *(1) in subsection (a), by striking “facility in”*
10 *and inserting “facility of”; and*

11 *(2) in subsection (b)(2), by inserting “or foreign”*
12 *after “interstate”.*

13 ***Subtitle C—Material Support to***
14 ***Terrorism Prohibition Enhance-***
15 ***ment Act of 2004***

16 **SEC. 2041. SHORT TITLE.**

17 *This subtitle may be cited as the “Material Support*
18 *to Terrorism Prohibition Enhancement Act of 2004”.*

19 **SEC. 2042. RECEIVING MILITARY-TYPE TRAINING FROM A**
20 ***FOREIGN TERRORIST ORGANIZATION.***

21 *Chapter 113B of title 18, United States Code, is*
22 *amended by adding after section 2339C the following new*
23 *section:*

1 “(2) an offender is a stateless person whose ha-
2 bitual residence is in the United States;

3 “(3) after the conduct required for the offense oc-
4 curs an offender is brought into or found in the
5 United States, even if the conduct required for the of-
6 fense occurs outside the United States;

7 “(4) the offense occurs in whole or in part within
8 the United States;

9 “(5) the offense occurs in or affects interstate or
10 foreign commerce;

11 “(6) an offender aids or abets any person over
12 whom jurisdiction exists under this paragraph in
13 committing an offense under subsection (a) or con-
14 spires with any person over whom jurisdiction exists
15 under this paragraph to commit an offense under sub-
16 section (a).

17 “(c) *DEFINITIONS.*—As used in this section—

18 “(1) the term ‘military-type training’ includes
19 training in means or methods that can cause death
20 or serious bodily injury, destroy or damage property,
21 or disrupt services to critical infrastructure, or train-
22 ing on the use, storage, production, or assembly of
23 any explosive, firearm or other weapon, including
24 any weapon of mass destruction (as defined in section
25 2232a(c)(2));

1 “(2) the term ‘serious bodily injury’ has the
2 meaning given that term in section 1365(h)(3);

3 “(3) the term ‘critical infrastructure’ means sys-
4 tems and assets vital to national defense, national se-
5 curity, economic security, public health or safety in-
6 cluding both regional and national infrastructure.
7 Critical infrastructure may be publicly or privately
8 owned; examples of critical infrastructure include gas
9 and oil production, storage, or delivery systems, water
10 supply systems, telecommunications networks, elec-
11 trical power generation or delivery systems, financing
12 and banking systems, emergency services (including
13 medical, police, fire, and rescue services), and trans-
14 portation systems and services (including highways,
15 mass transit, airlines, and airports); and

16 “(4) the term ‘foreign terrorist organization’
17 means an organization designated as a terrorist orga-
18 nization under section 219(a)(1) of the Immigration
19 and Nationality Act.”.

20 **SEC. 2043. PROVIDING MATERIAL SUPPORT TO TERRORISM.**

21 (a) **ADDITIONS TO OFFENSE OF PROVIDING MATERIAL**
22 **SUPPORT TO TERRORISTS.**—Section 2339A(a) of title 18,
23 *United States Code*, is amended—

24 (1) by designating the first sentence as para-
25 graph (1);

1 (2) *by designating the second sentence as para-*
2 *graph (3);*

3 (3) *by inserting after paragraph (1) as so des-*
4 *ignated by this subsection the following:*

5 “(2) (A) *Whoever in a circumstance described in*
6 *subparagraph (B) provides material support or re-*
7 *sources or conceals or disguises the nature, location,*
8 *source, or ownership of material support or resources,*
9 *knowing or intending that they are to be used in*
10 *preparation for, or in carrying out, an act of inter-*
11 *national or domestic terrorism (as defined in section*
12 *2331), or in preparation for, or in carrying out, the*
13 *concealment or escape from the commission of any*
14 *such act, or attempts or conspires to do so, shall be*
15 *punished as provided under paragraph (1) for an of-*
16 *fense under that paragraph.*

17 “(B) *The circumstances referred to in subpara-*
18 *graph (A) are any of the following:*

19 “(i) *The offense occurs in or affects inter-*
20 *state or foreign commerce.*

21 “(ii) *The act of terrorism is an act of inter-*
22 *national or domestic terrorism that violates the*
23 *criminal law of the United States.*

24 “(iii) *The act of terrorism is an act of do-*
25 *mestic terrorism that appears to be intended to*

1 *influence the policy, or affect the conduct, of the*
2 *Government of the United States or a foreign*
3 *government.*

4 “(iv) *An offender, acting within the United*
5 *States or outside the territorial jurisdiction of*
6 *the United States, is a national of the United*
7 *States (as defined in section 101(a)(22) of the*
8 *Immigration and Nationality Act, an alien law-*
9 *fully admitted for permanent residence in the*
10 *United States (as defined in section 101(a)(20)*
11 *of the Immigration and Nationality Act , or a*
12 *stateless person whose habitual residence is in*
13 *the United States, and the act of terrorism is an*
14 *act of international terrorism that appears to be*
15 *intended to influence the policy, or affect the con-*
16 *duct, of the Government of the United States or*
17 *a foreign government.*

18 “(v) *An offender, acting within the United*
19 *States, is an alien, and the act of terrorism is*
20 *an act of international terrorism that appears to*
21 *be intended to influence the policy, or affect the*
22 *conduct, of the Government of the United States*
23 *or a foreign government.*

24 “(vi) *An offender, acting outside the terri-*
25 *torial jurisdiction of the United States, is an*

1 *alien and the act of terrorism is an act of inter-*
2 *national terrorism that appears to be intended to*
3 *influence the policy of, or affect the conduct of,*
4 *the Government of the United States.*

5 “(vi) *An offender aids or abets any person*
6 *over whom jurisdiction exists under this para-*
7 *graph in committing an offense under this para-*
8 *graph or conspires with any person over whom*
9 *jurisdiction exists under this paragraph to com-*
10 *mit an offense under this paragraph.”; and*

11 (4) *by inserting “act or” after “underlying”.*

12 (b) *DEFINITIONS.—Section 2339A(b) of title 18,*
13 *United States Code, is amended—*

14 (1) *by striking “In this” and inserting “(1) In*
15 *this”;*

16 (2) *by inserting “any property, tangible or in-*
17 *tangible, or service, including” after “means”;*

18 (3) *by inserting “(one or more individuals who*
19 *may be or include oneself)” after “personnel”;*

20 (4) *by inserting “and” before “transportation”;*

21 (5) *by striking “and other physical assets”;* and

22 (6) *by adding at the end the following:*

23 “(2) *As used in this subsection, the term ‘training’*
24 *means instruction or teaching designed to impart a specific*
25 *skill, as opposed to general knowledge, and the term ‘expert*

1 *advice or assistance’ means advice or assistance derived*
2 *from scientific, technical or other specialized knowledge.”.*

3 (c) *ADDITION TO OFFENSE OF PROVIDING MATERIAL*
4 *SUPPORT TO TERRORIST ORGANIZATIONS.*—Section
5 *2339B(a)(1) of title 18, United States Code, is amended—*

6 (1) *by striking “, within the United States or*
7 *subject to the jurisdiction of the United States,” and*
8 *inserting “in a circumstance described in paragraph*
9 *(2)” ; and*

10 (2) *by adding at the end the following: “To vio-*
11 *late this paragraph, a person must have knowledge*
12 *that the organization is a designated terrorist organi-*
13 *zation (as defined in subsection (g)(6)), that the orga-*
14 *nization has engaged or engages in terrorist activity*
15 *(as defined in section 212(a)(3)(B) of the Immigra-*
16 *tion and Nationality Act, or that the organization*
17 *has engaged or engages in terrorism (as defined in*
18 *section 140(d)(2) of the Foreign Relations Authoriza-*
19 *tion Act, Fiscal Years 1988 and 1989.”.*

20 (d) *FEDERAL AUTHORITY.*—Section *2339B(d) of title*
21 *18 is amended—*

22 (1) *by inserting “(1)” before “There”; and*

23 (2) *by adding at the end the following:*

24 “(2) *The circumstances referred to in paragraph (1)*
25 *are any of the following:*

1 “(A) *An offender is a national of the United*
2 *States (as defined in section 101(a)(22) of the Immigra-*
3 *tion and Nationality Act (8 U.S.C. 1101(a)(22))*
4 *or an alien lawfully admitted for permanent resi-*
5 *dence in the United States (as defined in section*
6 *101(a)(20) of the Immigration and Nationality Act.*

7 “(B) *An offender is a stateless person whose ha-*
8 *bitual residence is in the United States.*

9 “(C) *After the conduct required for the offense oc-*
10 *curs an offender is brought into or found in the*
11 *United States, even if the conduct required for the of-*
12 *fense occurs outside the United States.*

13 “(D) *The offense occurs in whole or in part with-*
14 *in the United States.*

15 “(E) *The offense occurs in or affects interstate or*
16 *foreign commerce.*

17 “(F) *An offender aids or abets any person over*
18 *whom jurisdiction exists under this paragraph in*
19 *committing an offense under subsection (a) or con-*
20 *spires with any person over whom jurisdiction exists*
21 *under this paragraph to commit an offense under sub-*
22 *section (a).”.*

23 (e) *DEFINITION.—Paragraph (4) of section 2339B(g)*
24 *of title 18, United States Code, is amended to read as fol-*
25 *lows:*

1 “(4) the term ‘material support or resources’ has
2 the same meaning given that term in section 2339A;”.

3 (f) *ADDITIONAL PROVISIONS.*—Section 2339B of title
4 18, United States Code, is amended by adding at the end
5 the following:

6 “(h) *PROVISION OF PERSONNEL.*—No person may be
7 prosecuted under this section in connection with the term
8 ‘personnel’ unless that person has knowingly provided, at-
9 tempted to provide, or conspired to provide a foreign ter-
10 rorist organization with one or more individuals (who may
11 be or include himself) to work under that terrorist organiza-
12 tion’s direction or control or to organize, manage, supervise,
13 or otherwise direct the operation of that organization. Indi-
14 viduals who act entirely independently of the foreign ter-
15 rorist organization to advance its goals or objectives shall
16 not be considered to be working under the foreign terrorist
17 organization’s direction and control.

18 “(i) *RULE OF CONSTRUCTION.*—Nothing in this sec-
19 tion shall be construed or applied so as to abridge the exer-
20 cise of rights guaranteed under the First Amendment to the
21 Constitution of the United States.”.

22 **SEC. 2044. FINANCING OF TERRORISM.**

23 (a) *FINANCING TERRORISM.*—Section 2339c(c)(2) of
24 title 18, United States Code, is amended—

1 (1) *by striking “, resources, or funds” and in-*
2 *serting “or resources, or any funds or proceeds of such*
3 *funds”;*

4 (2) *in subparagraph (A), by striking “were pro-*
5 *vided” and inserting “are to be provided, or knowing*
6 *that the support or resources were provided,”; and*

7 (3) *in subparagraph (B)—*

8 (A) *by striking “or any proceeds of such*
9 *funds”;* and

10 (B) *by striking “were provided or collected”*
11 *and inserting “are to be provided or collected, or*
12 *knowing that the funds were provided or col-*
13 *lected,”.*

14 (b) *DEFINITIONS.—Section 2339c(e) of title 18, United*
15 *States Code, is amended—*

16 (1) *by striking “and” at the end of paragraph*
17 (12);

18 (2) *by redesignating paragraph (13) as para-*
19 *graph (14); and*

20 (3) *by inserting after paragraph (12) the fol-*
21 *lowing:*

22 “*(13) the term ‘material support or resources’*
23 *has the same meaning given that term in section*
24 *2339B(g)(4) of this title; and”.*

1 ***Subtitle D—Weapons of Mass De-***
2 ***struction Prohibition Improve-***
3 ***ment Act of 2004***

4 **SEC. 2051. SHORT TITLE.**

5 *This subtitle may be cited as the “Weapons of Mass*
6 *Destruction Prohibition Improvement Act of 2004”.*

7 **SEC. 2052. WEAPONS OF MASS DESTRUCTION.**

8 *(a) EXPANSION OF JURISDICTIONAL BASES AND*
9 *SCOPE.—Section 2332a of title 18, United States Code, is*
10 *amended—*

11 *(1) so that paragraph (2) of subsection (a) reads*
12 *as follows:*

13 *“(2) against any person or property within the*
14 *United States, and*

15 *“(A) the mail or any facility of interstate*
16 *or foreign commerce is used in furtherance of the*
17 *offense;*

18 *“(B) such property is used in interstate or*
19 *foreign commerce or in an activity that affects*
20 *interstate or foreign commerce;*

21 *“(C) any perpetrator travels in or causes*
22 *another to travel in interstate or foreign com-*
23 *merce in furtherance of the offense; or*

24 *“(D) the offense, or the results of the offense,*
25 *affect interstate or foreign commerce, or, in the*

1 *case of a threat, attempt, or conspiracy, would*
2 *have affected interstate or foreign commerce;”;*

3 *(2) in paragraph (3) of subsection (a), by strik-*
4 *ing the comma at the end and inserting “; or”;*

5 *(3) in subsection (a), by adding the following at*
6 *the end:*

7 *“(4) against any property within the United*
8 *States that is owned, leased, or used by a foreign gov-*
9 *ernment,”;*

10 *(4) at the end of subsection (c)(1), by striking*
11 *“and”;*

12 *(5) in subsection (c)(2), by striking the period at*
13 *the end and inserting “; and”; and*

14 *(6) in subsection (c), by adding at the end the*
15 *following:*

16 *“(3) the term ‘property’ includes all real and*
17 *personal property.”.*

18 ***(b) RESTORATION OF THE COVERAGE OF CHEMICAL***
19 ***WEAPONS.—Section 2332a of title 18, United States Code,***
20 ***as amended by subsection (a), is further amended—***

21 *(1) in the section heading, by striking “certain”;*

22 *(2) in subsection (a), by striking “(other than a*
23 *chemical weapon as that term is defined in section*
24 *229F)”;* and

1 (3) *in subsection (b), by striking “(other than a*
 2 *chemical weapon (as that term is defined in section*
 3 *229F))”.*

4 (c) *EXPANSION OF CATEGORIES OF RESTRICTED PER-*
 5 *SONS SUBJECT TO PROHIBITIONS RELATING TO SELECT*
 6 *AGENTS.—Section 175b(d)(2) of title 18, United States*
 7 *Code, is amended—*

8 (1) *in subparagraph (G) by—*

9 (A) *inserting “(i)” after “(G)”;*

10 (B) *inserting “, or (ii) acts for or on behalf*
 11 *of, or operates subject to the direction or control*
 12 *of, a government or official of a country de-*
 13 *scribed in this subparagraph” after “terrorism”;*
 14 *and*

15 (C) *striking “or” after the semicolon.*

16 (2) *in subparagraph (H) by striking the period*
 17 *and inserting “; or”; and*

18 (3) *by adding at the end the following new sub-*
 19 *paragraph:*

20 *“(I) is a member of, acts for or on behalf of,*
 21 *or operates subject to the direction or control of,*
 22 *a terrorist organization as defined in section*
 23 *212(a)(3)(B)(vi) of the Immigration and Nation-*
 24 *ality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.*

25 (d) *CONFORMING AMENDMENT TO REGULATIONS.—*

1 (1) *Section 175b(a)(1) of title 18, United States*
2 *Code, is amended by striking “as a select agent in*
3 *Appendix A” and all that follows and inserting the*
4 *following: “as a non-overlap or overlap select biological*
5 *agent or toxin in sections 73.4 and 73.5 of title*
6 *42, Code of Federal Regulations, pursuant to section*
7 *351A of the Public Health Service Act, and is not ex-*
8 *cluded under sections 73.4 and 73.5 or exempted*
9 *under section 73.6 of title 42, Code of Federal Regula-*
10 *tions.”.*

11 (2) *The amendment made by paragraph (1) shall*
12 *take effect at the same time that sections 73.4, 73.5,*
13 *and 73.6 of title 42, Code of Federal Regulations, be-*
14 *come effective.*

15 (e) *ENHANCING PROSECUTION OF WEAPONS OF MASS*
16 *DESTRUCTION OFFENSES.—Section 1961(1)(B) of title 18,*
17 *United States Code, is amended by adding at the end the*
18 *following: “sections 175–178 (relating to biological weap-*
19 *ons), sections 229–229F (relating to chemical weapons), sec-*
20 *tion 831 (relating to nuclear materials),”.*

21 **SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF**
22 **MASS DESTRUCTION THREATS TO THE**
23 **UNITED STATES.**

24 (a) *Section 57(b) of the Atomic Energy Act of 1954*
25 *(42 U.S.C. 2077(b)) is amended by striking “in the produc-*

1 *tion of any special nuclear material” and inserting “or*
 2 *participate in the development or production of any special*
 3 *nuclear material or atomic weapon”.*

4 *(b) Title 18, United States Code, is amended—*

5 *(1) in the table of sections at the beginning of*
 6 *chapter 39, by inserting after the item relating to sec-*
 7 *tion 831 the following:*

“832. Participation in nuclear and weapons of mass destruction threats to the
United States.”;

8 *(2) by inserting after section 831 the following:*

9 **“§ 832. Participation in nuclear and weapons of mass**
 10 ***destruction threats to the United States***

11 *“(a) Whoever, within the United States or subject to*
 12 *the jurisdiction of the United States, willfully participates*
 13 *in or provides material support or resources (as defined in*
 14 *section 2339A) to a nuclear weapons program or other*
 15 *weapons of mass destruction program of a foreign terrorist*
 16 *power, or attempts or conspires to do so, shall be imprisoned*
 17 *for not more than 20 years.*

18 *“(b) There is extraterritorial Federal jurisdiction over*
 19 *an offense under this section.*

20 *“(c) Whoever without lawful authority develops, pos-*
 21 *sesses, or attempts or conspires to develop or possess a radio-*
 22 *logical weapon, or threatens to use or uses a radiological*
 23 *weapon against any person within the United States, or*
 24 *a national of the United States while such national is out-*

1 *side the United States or against any property that is*
2 *owned, leased, funded or used by the United States, whether*
3 *that property is within or outside the United States, shall*
4 *be imprisoned for any term of years or for life, and if death*
5 *results, shall be punished by death or imprisoned for any*
6 *term of years or for life.*

7 “(d) *As used in this section—*

8 “(1) *‘nuclear weapons program’ means a pro-*
9 *gram or plan for the development, acquisition, or pro-*
10 *duction of any nuclear weapon or weapons;*

11 “(2) *‘weapons of mass destruction program’*
12 *means a program or plan for the development, acqui-*
13 *sition, or production of any weapon or weapons of*
14 *mass destruction (as defined in section 2332a(c));*

15 “(3) *‘foreign terrorist power’ means a terrorist*
16 *organization designated under section 219 of the Im-*
17 *migration and Nationality Act, or a state sponsor of*
18 *terrorism designated under section 6(j) of the Export*
19 *Administration Act of 1979 or section 620A of the*
20 *Foreign Assistance Act of 1961; and*

21 “(4) *‘nuclear weapon’ means any weapon that*
22 *contains or uses nuclear material as defined in sec-*
23 *tion 831(f)(1).’; and*

24 (3) *in section 2332b(g)(5)(B)(i), by inserting*
25 *after “nuclear materials),” the following: “832 (relat-*

1 *velop and implement the highly secure network*
2 *required under section 362 of Public Law 107–*
3 *56 to expedite the filing of, and reduce the filing*
4 *costs for, financial institution reports, including*
5 *suspicious activity reports, collected by FinCEN*
6 *under chapter 53 and related provisions of law,*
7 *and enable FinCEN to immediately alert finan-*
8 *cial institutions about suspicious activities that*
9 *warrant immediate and enhanced scrutiny, and*
10 *to provide and upgrade advanced information-*
11 *sharing technologies to materially improve the*
12 *Government’s ability to exploit the information*
13 *in the FinCEN databanks, \$16,500,000.*

14 “(B) *ADVANCED ANALYTICAL TECH-*
15 *NOLOGIES.—To provide advanced analytical*
16 *tools needed to ensure that the data collected by*
17 *FinCEN under chapter 53 and related provi-*
18 *sions of law are utilized fully and appropriately*
19 *in safeguarding financial institutions and sup-*
20 *porting the war on terrorism, \$5,000,000.*

21 “(C) *DATA NETWORKING MODERNIZA-*
22 *TION.—To improve the telecommunications in-*
23 *frastructure to support the improved capabilities*
24 *of the FinCEN systems, \$3,000,000.*

1 “(D) *ENHANCED COMPLIANCE CAPA-*
2 *BILITY.—To improve the effectiveness of the Of-*
3 *fice of Compliance in FinCEN, \$3,000,000.*

4 “(E) *DETECTION AND PREVENTION OF FI-*
5 *NANCIAL CRIMES AND TERRORISM.—To provide*
6 *development of, and training in the use of, tech-*
7 *nology to detect and prevent financial crimes*
8 *and terrorism within and without the United*
9 *States, \$8,000,000.”.*

10 **SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES**
11 **STRATEGY REAUTHORIZATION.**

12 (a) *PROGRAM.—Section 5341(a)(2) of title 31, United*
13 *States Code, is amended by striking “and 2003,” and in-*
14 *serting “2003, and 2005,”.*

15 (b) *REAUTHORIZATION OF APPROPRIATIONS.—Section*
16 *5355 of title 31, United States Code, is amended by adding*
17 *at the end the following:*

 “2004 \$15,000,000.
 “2005 \$15,000,000.”.

1 **CHAPTER 2—ENFORCEMENT TOOLS TO**
 2 **COMBAT FINANCIAL CRIMES INCLUD-**
 3 **ING TERRORIST FINANCING**

4 **Subchapter A—Money laundering abatement**
 5 **and financial antiterrorism technical cor-**
 6 **rections**

7 **SEC. 2111. SHORT TITLE.**

8 *This subchapter may be cited as the “Money Laun-*
 9 *dering Abatement and Financial Antiterrorism Technical*
 10 *Corrections Act of 2004”.*

11 **SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107-**

12 **56.**

13 *(a) The heading of title III of Public Law 107–56 is*
 14 *amended to read as follows:*

15 **“TITLE III—INTERNATIONAL**
 16 **MONEY LAUNDERING ABATE-**
 17 **MENT AND FINANCIAL**
 18 **ANTITERRORISM ACT OF**
 19 **2001”.**

20 *(b) The table of contents of Public Law 107–56 is*
 21 *amended by striking the item relating to title III and in-*
 22 *serting the following new item:*

“TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND
FINANCIAL ANTITERRORISM ACT OF 2001”.

23 *(c) Section 302 of Public Law 107–56 is amended—*

1 (1) in subsection (a)(4), by striking the comma
2 after “movement of criminal funds”;

3 (2) in subsection (b)(7), by inserting “or types of
4 accounts” after “classes of international trans-
5 actions”; and

6 (3) in subsection (b)(10), by striking “sub-
7 chapters II and III” and inserting “subchapter II”.

8 (d) Section 303(a) of Public Law 107–56 is amended
9 by striking “Anti-Terrorist Financing Act” and inserting
10 “Financial Antiterrorism Act”.

11 (e) The heading for section 311 of Public Law 107–
12 56 is amended by striking “**OR INTERNATIONAL TRANS-**
13 **ACTIONS**” and inserting “**INTERNATIONAL TRANS-**
14 **ACTIONS, OR TYPES OF ACCOUNTS**”.

15 (f) Section 314 of Public Law 107–56 is amended—

16 (1) in paragraph (1)—

17 (A) by inserting a comma after “organiza-
18 tions engaged in”; and

19 (B) by inserting a comma after “credible
20 evidence of engaging in”;

21 (2) in paragraph (2)(A)—

22 (A) by striking “and” after “nongovern-
23 mental organizations,”; and

24 (B) by inserting a comma after “unwit-
25 tingly involved in such finances”;

1 (3) in paragraph (3)(A)—

2 (A) by striking “to monitor accounts of”
3 and inserting “monitor accounts of,”; and

4 (B) by striking the comma after “organiza-
5 tions identified”; and

6 (4) in paragraph (3)(B), by inserting “finan-
7 cial” after “size, and nature of the”.

8 (g) Section 321 of Public Law 107–56 is amended by
9 striking “5312(2)” and inserting “5312(a)(2)”.

10 (h) Section 325 of Public Law 107–56 is amended by
11 striking “as amended by section 202 of this title,” and in-
12 serting “as amended by section 352,”.

13 (i) Subsections (a)(2) and (b)(2) of section 327 of Pub-
14 lic Law 107–56 are each amended by inserting a period
15 after “December 31, 2001” and striking all that follows
16 through the period at the end of each such subsection.

17 (j) Section 356(c)(4) of Public Law 107–56 is amended
18 by striking “or business or other grantor trust” and insert-
19 ing “, business trust, or other grantor trust”.

20 (k) Section 358(e) of Public Law 107–56 is amended—

21 (1) by striking “Section 123(a)” and inserting
22 “That portion of section 123(a)”;

23 (2) by striking “is amended to read” and insert-
24 ing “that precedes paragraph (1) of such section is
25 amended to read”; and

1 (3) *by striking “.” at the end of such section*
2 *and inserting “—”.*

3 (l) *Section 360 of Public Law 107–56 is amended—*

4 (1) *in subsection (a), by inserting “the” after*
5 *“utilization of the funds of”; and*

6 (2) *in subsection (b), by striking “at such insti-*
7 *tutions” and inserting “at such institution”.*

8 (m) *Section 362(a)(1) of Public Law 107–56 is amend-*
9 *ed by striking “subchapter II or III” and inserting “sub-*
10 *chapter II”.*

11 (n) *Section 365 of Public Law 107—56 is amended*
12 *—*

13 (1) *by redesignating the 2nd of the 2 subsections*
14 *designated as subsection (c) (relating to a clerical*
15 *amendment) as subsection (d); and*

16 (2) *by redesignating subsection (f) as subsection*
17 *(e).*

18 (o) *Section 365(d) of Public Law 107–56 (as so redес-*
19 *ignated by subsection (n) of this section) is amended by*
20 *striking “section 5332 (as added by section 112 of this*
21 *title)” and inserting “section 5330”.*

1 **SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**
2 **SIONS OF LAW.**

3 (a) Section 310(c) of title 31, United States Code, is
4 amended by striking “the Network” each place such term
5 appears and inserting “FinCEN”.

6 (b) Section 5312(a)(3)(C) of title 31, United States
7 Code, is amended by striking “sections 5333 and 5316” and
8 inserting “sections 5316 and 5331”.

9 (c) Section 5318(i) of title 31, United States Code, is
10 amended—

11 (1) in paragraph (3)(B), by inserting a comma
12 after “foreign political figure” the 2nd place such
13 term appears; and

14 (2) in the heading of paragraph (4), by striking
15 “DEFINITION” and inserting “DEFINITIONS”.

16 (d) Section 5318(k)(1)(B) of title 31, United States
17 Code, is amended by striking “section 5318A(f)(1)(B)” and
18 inserting “section 5318A(e)(1)(B)”.

19 (e) The heading for section 5318A of title 31, United
20 States Code, is amended to read as follows:

21 **“§5318A. Special measures for jurisdictions, financial**
22 **institutions, international transactions,**
23 **or types of accounts of primary money**
24 **laundering concern”.**

25 (f) Section 5318A of title 31, United States Code, is
26 amended—

1 (1) in subsection (a)(4)(A), by striking “, as de-
2 fined in section 3 of the Federal Deposit Insurance
3 Act,” and inserting “ (as defined in section 3 of the
4 Federal Deposit Insurance Act)”;

5 (2) in subsection (a)(4)(B)(iii), by striking “or
6 class of transactions” and inserting “class of trans-
7 actions, or type of account”;

8 (3) in subsection (b)(1)(A), by striking “or class
9 of transactions to be” and inserting “class of trans-
10 actions, or type of account to be”; and

11 (4) in subsection (e)(3), by inserting “or sub-
12 section (i) or (j) of section 5318” after “identification
13 of individuals under this section”.

14 (g) Section 5324(b) of title 31, United States Code, is
15 amended by striking “5333” each place such term appears
16 and inserting “5331”.

17 (h) Section 5332 of title 31, United States Code, is
18 amended—

19 (1) in subsection (b)(2), by striking “, subject to
20 subsection (d) of this section”; and

21 (2) in subsection (c)(1), by striking “, subject to
22 subsection (d) of this section,”.

23 (i) The table of sections for subchapter II of chapter
24 53 of title 31, United States Code, is amended by striking

1 *the item relating to section 5318A and inserting the fol-*
2 *lowing new item:*

“5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.”.

3 *(j) Section 18(w)(3) of the Federal Deposit Insurance*
4 *Act (12 U.S.C. 1828(w)(3)) is amended by inserting a*
5 *comma after “agent of such institution”.*

6 *(k) Section 21(a)(2) of the Federal Deposit Insurance*
7 *Act (12 U.S.C. 1829b(a)(2)) is amended by striking “recog-*
8 *nizes that” and inserting “recognizing that”.*

9 *(l) Section 626(e) of the Fair Credit Reporting Act (15*
10 *U.S.C. 1681v(e)) is amended by striking “governmental*
11 *agency” and inserting “government agency”.*

12 **SEC. 2114. REPEAL OF REVIEW.**

13 *Title III of Public Law 107–56 is amended by striking*
14 *section 303 (31 U.S.C. 5311 note).*

15 **SEC. 2115. EFFECTIVE DATE.**

16 *The amendments made by this subchapter to Public*
17 *Law 107–56, the United States Code, the Federal Deposit*
18 *Insurance Act, and any other provision of law shall take*
19 *effect as if such amendments had been included in Public*
20 *Law 107–56, as of the date of the enactment of such Public*
21 *Law, and no amendment made by such Public Law that*
22 *is inconsistent with an amendment made by this subchapter*
23 *shall be deemed to have taken effect.*

1 ***Subchapter B—Additional enforcement tools***

2 ***SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECUR-***
 3 ***RITY PRINTING.***

4 *(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of*
 5 *title 31, United States Code (relating to engraving and*
 6 *printing currency and security documents), is amended—*

7 *(1) by striking “(a) The Secretary of the Treas-*
 8 *ury” and inserting:*

9 *“(a) AUTHORITY TO ENGRAVE AND PRINT.—*

10 *“(1) IN GENERAL.—The Secretary of the Treas-*
 11 *ury”;* and

12 *(2) by adding at the end the following new para-*
 13 *graphs:*

14 *“(2) ENGRAVING AND PRINTING FOR OTHER GOV-*
 15 *ERNMENTS.—The Secretary of the Treasury may*
 16 *produce currency, postage stamps, and other security*
 17 *documents for foreign governments if—*

18 *“(A) the Secretary of the Treasury deter-*
 19 *mines that such production will not interfere*
 20 *with engraving and printing needs of the United*
 21 *States; and*

22 *“(B) the Secretary of State determines that*
 23 *such production would be consistent with the for-*
 24 *ign policy of the United States.*

1 “(3) *PROCUREMENT GUIDELINES.*—*Articles, ma-*
2 *terial, and supplies procured for use in the produc-*
3 *tion of currency, postage stamps, and other security*
4 *documents for foreign governments pursuant to para-*
5 *graph (2) shall be treated in the same manner as ar-*
6 *ticles, material, and supplies procured for public use*
7 *within the United States for purposes of title III of*
8 *the Act of March 3, 1933 (41 U.S.C. 10a et seq.; com-*
9 *monly referred to as the Buy American Act).”.*

10 (b) *REIMBURSEMENT.*—*Section 5143 of title 31,*
11 *United States Code (relating to payment for services of the*
12 *Bureau of Engraving and Printing), is amended—*

13 (1) *in the first sentence, by inserting “or to a*
14 *foreign government under section 5114” after “agen-*
15 *cy”;*

16 (2) *in the second sentence, by inserting “and*
17 *other” after “including administrative”; and*

18 (3) *in the last sentence, by inserting “, and the*
19 *Secretary shall take such action, in coordination with*
20 *the Secretary of State, as may be appropriate to en-*
21 *sure prompt payment by a foreign government of any*
22 *invoice or statement of account submitted by the Sec-*
23 *retary with respect to services rendered under section*
24 *5114” before the period at the end.*

1 **SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.**

2 (a) *IN GENERAL.*—Section 474(a) of title 18, United
3 States Code, is amended by inserting after the paragraph
4 beginning “Whoever has in his control, custody, or posses-
5 sion any plate” the following:

6 “Whoever, with intent to defraud, has in his custody,
7 control, or possession any material that can be used to
8 make, alter, forge or counterfeit any obligations and other
9 securities of the United States or any part of such securities
10 and obligations, except under the authority of the Secretary
11 of the Treasury; or”.

12 (b) *FOREIGN OBLIGATIONS AND SECURITIES.*—Section
13 481 of title 18, United States Code, is amended by inserting
14 after the paragraph beginning “Whoever, with intent to de-
15 fraud” the following:

16 “Whoever, with intent to defraud, has in his custody,
17 control, or possession any material that can be used to
18 make, alter, forge or counterfeit any obligation or other se-
19 curity of any foreign government, bank or corporation; or”.

20 (c) *COUNTERFEIT ACTS.*—Section 470 of title 18,
21 United States Code, is amended by striking “or 474” and
22 inserting “474, or 474A”.

23 (d) *MATERIALS USED IN COUNTERFEITING.*—Section
24 474A(b) of title 18, United States Code, is amended by
25 striking “any essentially identical” and inserting “any
26 thing or material made after or in the similitude of any”.

1 **SEC. 2123. REPORTING OF CROSS-BORDER TRANSMITTAL**
2 **OF FUNDS.**

3 *Section 5318 of title 31, United States Code, is amend-*
4 *ed by adding at the end the following new subsection:*

5 “(n) *REPORTING OF CROSS-BORDER TRANSMITTAL OF*
6 *FUNDS.—*

7 “(1) *IN GENERAL.—Subject to paragraph (3), the*
8 *Secretary shall prescribe regulations requiring such*
9 *financial institutions as the Secretary determines to*
10 *be appropriate to report to the Financial Crimes En-*
11 *forcement Network certain cross-border electronic*
12 *transmittals of funds relevant to efforts of the Sec-*
13 *retary against money laundering and terrorist fi-*
14 *nancing.*

15 “(2) *FORM AND MANNER OF REPORTS.—In pre-*
16 *scribing the regulations required under paragraph*
17 *(1), the Secretary shall determine the appropriate*
18 *form, manner, content and frequency of filing of the*
19 *required reports.*

20 “(3) *FEASIBILITY REPORT.—Before prescribing*
21 *the regulations required under paragraph (1), and as*
22 *soon as is practicable after the date of enactment of*
23 *the 9/11 Recommendations Implementation Act, the*
24 *Secretary shall delegate to the Bank Secrecy Act Ad-*
25 *visory Group established by the Secretary the task of*

1 *producing a report for the Secretary and the Congress*
2 *that—*

3 “(A) *identifies the information in cross-border*
4 *electronic transmittals of funds that is rel-*
5 *evant to efforts against money laundering and*
6 *terrorist financing;*

7 “(B) *makes recommendations regarding the*
8 *appropriate form, manner, content and fre-*
9 *quency of filing of the required reports; and*

10 “(C) *identifies the technology necessary for*
11 *the Financial Crimes Enforcement Network to*
12 *receive, keep, exploit and disseminate informa-*
13 *tion from reports of cross-border electronic trans-*
14 *mittals of funds to law enforcement and other*
15 *entities engaged in efforts against money laun-*
16 *dering and terrorist financing.*

17 *The report shall be submitted to the Secretary and the*
18 *Congress no later than the end of the 1-year period*
19 *beginning on the date of enactment of such Act.*

20 “(4) *REGULATIONS.—*

21 “(A) *IN GENERAL.—Subject to subpara-*
22 *graph (B), the regulations required by para-*
23 *graph (1) shall be prescribed in final form by the*
24 *Secretary, in consultation with the Board of*
25 *Governors of the Federal Reserve System, before*

1 *the end of the 3-year period beginning on the*
2 *date of the enactment of the 9/11 Recommenda-*
3 *tions Implementation Act.*

4 “(B) *TECHNOLOGICAL FEASIBILITY.*—*No*
5 *regulations shall be prescribed under this sub-*
6 *section before the Secretary certifies to the Con-*
7 *gress that the Financial Crimes Enforcement*
8 *Network has the technological systems in place to*
9 *effectively and efficiently receive, keep, exploit,*
10 *and disseminate information from reports of*
11 *cross-border electronic transmittals of funds to*
12 *law enforcement and other entities engaged in ef-*
13 *forts against money laundering and terrorist fi-*
14 *nancing.*

15 “(5) *RECORDKEEPING.*—*No financial institution*
16 *required to submit reports on certain cross-border*
17 *electronic transmittals of funds to the Financial*
18 *Crimes Enforcement Network under this subsection*
19 *shall be subject to the recordkeeping requirement*
20 *under section 21(b)(3) of the Federal Deposit Insur-*
21 *ance Act with respect to such transmittals of funds.”.*

1 **SEC. 2124. ENHANCED EFFECTIVENESS OF EXAMINATIONS,**
2 **INCLUDING ANTI-MONEY LAUNDERING PRO-**
3 **GRAMS.**

4 (a) *DEPOSITORY INSTITUTIONS AND DEPOSITORY IN-*
5 *STITUTION HOLDING COMPANIES.*—Section 10 of the Fed-
6 *eral Deposit Insurance Act (12 U.S.C. 1820) is amended*
7 *by adding at the end the following new subsection:*

8 “(k) *POST-EMPLOYMENT LIMITATIONS ON LEADING*
9 *BANK EXAMINERS.*—

10 “(1) *IN GENERAL.*—*In the case of any person*
11 *who—*

12 “(A) *was an officer or employee (including*
13 *any special Government employee) of a Federal*
14 *banking agency or a Federal reserve bank; and*

15 “(B) *served 2 or more months during the*
16 *final 18 months of such person’s employment*
17 *with such agency or entity as the examiner-in-*
18 *charge (or a functionally equivalent position) of*
19 *a depository institution or depository institution*
20 *holding company with dedicated, overall, contin-*
21 *uous, and ongoing responsibility for the exam-*
22 *ination (or inspection) and supervision of that*
23 *depository institution or depository institution*
24 *holding company,*

25 *such person may not hold any office, position, or em-*
26 *ployment at any such depository institution or depos-*

1 *itory institution holding company, become a control-*
2 *ling shareholder in, a consultant for, a joint-venture*
3 *partner with, or an independent contractor for (in-*
4 *cluding as attorney, appraiser, or accountant) any*
5 *such depository institution or holding company, or*
6 *any other company that controls such depository in-*
7 *stitution, or otherwise participate in the conduct of*
8 *the affairs of any such depository institution or hold-*
9 *ing company, during the 1-year period beginning on*
10 *the date such person ceases to be an officer or em-*
11 *ployee (including any special Government employee)*
12 *of the Federal banking agency or Federal reserve*
13 *bank.*

14 *“(2) VIOLATORS SUBJECT TO INDUSTRY-WIDE*
15 *PROHIBITION ORDERS.—*

16 *“(A) IN GENERAL.—In addition to any*
17 *other penalty which may apply, whenever a Fed-*
18 *eral banking agency determines that a person*
19 *subject to paragraph (1) has violated the prohibi-*
20 *tion in such paragraph by becoming associated*
21 *with any insured depository institution, depository*
22 *institution holding company, or other com-*
23 *pany for which such agency serves as the appro-*
24 *priate Federal banking agency, the agency shall*
25 *serve a written notice or order, in accordance*

1 *with and subject to the provisions of section*
2 *8(e)(4) for written notices or orders under para-*
3 *graphs (1) or (2) of section 8(e), upon such per-*
4 *son of the agency's intention to—*

5 *“(i) remove such person from office in*
6 *any capacity described in paragraph (1) for*
7 *a period of 5 years; and*

8 *“(ii) prohibit any further participa-*
9 *tion by such person, in any manner, in the*
10 *conduct of the affairs of any insured depository*
11 *institution, depository institution hold-*
12 *ing company, or other company that con-*
13 *trols an insured depository institution for a*
14 *period of 5 years.*

15 *“(B) SCOPE OF PROHIBITION ORDER.—Any*
16 *person subject to an order issued under this sub-*
17 *section shall be subject to paragraphs (6) and (7)*
18 *of section 8(e) in the same manner and to the*
19 *same extent as a person subject to an order*
20 *issued under such section and subsections (i) and*
21 *(j) of section 8 and any other provision of this*
22 *Act applicable to orders issued under subsection*
23 *(e) shall apply with respect to such order.*

24 *“(3) REGULATIONS.—*

1 “(A) *IN GENERAL.*—*The Federal banking*
2 *agencies shall prescribe regulations to implement*
3 *this subsection, to determine which persons are*
4 *referred to in paragraph (1)(B) taking into*
5 *account—*

6 “(i) *the manner in which examiners*
7 *and other persons who participate in the*
8 *regulation, examination, or monitoring of*
9 *depository institutions or depository insti-*
10 *tution holding companies are distributed*
11 *among such institutions or companies by*
12 *such agency, including the number of exam-*
13 *iners and other persons assigned to each in-*
14 *stitution or holding company, the depth and*
15 *structure of any group so assigned within*
16 *such distribution, and the factors giving*
17 *rise to that distribution;*

18 “(ii) *the number of institutions or*
19 *companies each such examiner or other per-*
20 *son is so involved with in any given period*
21 *of assignment;*

22 “(iii) *the period of time for which each*
23 *such examiner or other person is assigned to*
24 *an institution or company, or a group of*

1 *institutions or companies, before reassign-*
2 *ment;*

3 “(iv) *the size of the institutions or*
4 *holding companies for which each such per-*
5 *son is responsible and the amount of time*
6 *devoted to each such institution or holding*
7 *company during each examination period;*
8 *and*

9 “(v) *such other factors as the agency*
10 *determines to be appropriate.*

11 “(B) *DETERMINATION OF APPLICABILITY.—*
12 *The regulations prescribed or orders issued under*
13 *this subparagraph by an appropriate Federal*
14 *banking agency shall include a process, initiated*
15 *by application or otherwise, for determining*
16 *whether any person who ceases to be, or intends*
17 *to cease to be, an examiner of insured depository*
18 *institutions or depository institution holding*
19 *companies for or on behalf of such agency is sub-*
20 *ject to the limitations of this subsection with re-*
21 *spect to any particular insured depository insti-*
22 *tution or depository institution holding com-*
23 *pany.*

24 “(C) *CONSULTATION.—The Federal banking*
25 *agencies shall consult with each other for the*

1 *purpose of assuring that the rules and regula-*
2 *tions issued by the agencies under subparagraph*
3 *(A) are, to the extent possible, consistent, com-*
4 *parable, and practicable, taking into account*
5 *any differences in the supervisory programs uti-*
6 *lized by the agencies for the supervision of depos-*
7 *itory institutions and depository institution*
8 *holding companies.*

9 “(4) *WAIVER.—A Federal banking agency may*
10 *waive, on a case-by-case basis, the restrictions im-*
11 *posed by this subsection if—*

12 “(A) *the head of the agency certifies in*
13 *writing that the grant of such waiver would not*
14 *be inconsistent with the public interest; and*

15 “(B) *the waiver is provided in advance be-*
16 *fore the person becomes affiliated in any way*
17 *with the depository institution, depository insti-*
18 *tution holding company, or other company.*

19 “(5) *DEFINITIONS AND RULES OF CONSTRUC-*
20 *TION.—For purposes of this subsection, the following*
21 *definitions and rules shall apply:*

22 “(A) *DEPOSITORY INSTITUTION.—The term*
23 *‘depository institution’ includes an uninsured*
24 *branch or agency of a foreign bank if such*
25 *branch or agency is located in any State.*

1 “(B) *DEPOSITORY INSTITUTION HOLDING*
2 *COMPANY.*—*The term ‘depository institution*
3 *holding company’ includes any foreign bank or*
4 *company described in section 8(a) of the Inter-*
5 *national Banking Act of 1978.*

6 “(C) *HEAD OF THE AGENCY.*—*The term ‘the*
7 *head of the agency’ means—*

8 “(i) *the Comptroller of the Currency,*
9 *in the case of the Office of the Comptroller*
10 *of the Currency;*

11 “(ii) *the Chairman of the Board of*
12 *Governors of the Federal Reserve System, in*
13 *the case of the Board of Governors of the*
14 *Federal Reserve System;*

15 “(iii) *the Chairperson of the Board of*
16 *Directors, in the case of the Federal Deposit*
17 *Insurance Corporation; and*

18 “(iv) *the Director, in the case of the*
19 *Office of Thrift Supervision.*

20 “(D) *RULE OF CONSTRUCTION FOR CON-*
21 *SULTANTS AND INDEPENDENT CONTRACTORS.*—*A*
22 *person shall be deemed to act as a consultant or*
23 *independent contractor (including as an attor-*
24 *ney, appraiser, or accountant) for a depository*
25 *institution, depository holding company, or other*

1 *company only if such person directly works on*
 2 *matters for, or on behalf of, such depository in-*
 3 *stitution, depository holding company, or other*
 4 *company.*

5 “(E) *APPROPRIATE AGENCY FOR CERTAIN*
 6 *OTHER COMPANIES.—The term ‘appropriate Fed-*
 7 *eral banking agency’ means, with respect to a*
 8 *company that is not a depository institution or*
 9 *depository institution holding company, the Fed-*
 10 *eral banking agency on whose behalf the person*
 11 *described in paragraph (1) performed the func-*
 12 *tions described in paragraph (1)(B), as imple-*
 13 *mented by regulations prescribed under para-*
 14 *graph (3).”.*

15 (b) *CREDIT UNIONS.—Section 206 of the Federal Cred-*
 16 *it Union Act (12 U.S.C. 1786) is amended by adding at*
 17 *the end the following new subsection:*

18 “(w) *POST-EMPLOYMENT LIMITATIONS ON EXAM-*
 19 *INERS.—*

20 “(1) *REGULATIONS REQUIRED.—The Board shall*
 21 *consult with the Federal banking agencies and pre-*
 22 *scribe regulations imposing the same limitations on*
 23 *persons employed by or on behalf of the Board as*
 24 *leading examiners of, or functionally equivalent posi-*
 25 *tions with respect to, credit unions as are applicable*

1 *under section 10(k) of the Federal Deposit Insurance*
2 *Act, taking into account all the requirements and fac-*
3 *tors described in paragraphs (3) and (4) of such sec-*
4 *tion.*

5 *“(2) ENFORCEMENT.—The Board shall issue or-*
6 *ders under subsection (g) with respect to any person*
7 *who violates any regulation prescribed pursuant to*
8 *paragraph (1) to—*

9 *“(A) remove such person from office in any*
10 *capacity with respect to a credit union; and*

11 *“(B) prohibit any further participation by*
12 *such person, in any manner, in the conduct of*
13 *the affairs of any credit union for a period of 5*
14 *years.*

15 *“(3) SCOPE OF PROHIBITION ORDER.—Any per-*
16 *son subject to an order issued under this subsection*
17 *shall be subject to paragraphs (5) and (7) of sub-*
18 *section (g) in the same manner and to the same ex-*
19 *tent as a person subject to an order issued under such*
20 *subsection and subsection (l) and any other provision*
21 *of this Act applicable to orders issued under sub-*
22 *section (g) shall apply with respect to such order.”.*

23 *(c) STUDY OF EXAMINER HIRING AND RETENTION.—*

24 *(1) STUDY REQUIRED.—The Board of Directors*
25 *of the Federal Deposit Insurance Corporation, the*

1 *Comptroller of the Currency, the Director of the Office*
2 *of Thrift Supervision, the Board of Governors of the*
3 *Federal Reserve System, and the National Credit*
4 *Union Administration Board, acting through the Fi-*
5 *nancial Institutions Examination Council, shall con-*
6 *duct a study of efforts and proposals for—*

7 *(A) retaining the services of experienced*
8 *and highly qualified examiners and supervisors*
9 *already employed by such agencies; and*

10 *(B) continuing to attract such examiners*
11 *and supervisors on an-ongoing basis to the extent*
12 *necessary to fulfill the agencies' obligations to*
13 *maintain the safety and soundness of the Na-*
14 *tion's depository institutions.*

15 *(2) REPORT.—Before the end of the 1-year pe-*
16 *riod beginning on the date of the enactment of this*
17 *Act, the agencies conducting the study under para-*
18 *graph (1) shall submit a report containing the find-*
19 *ings and conclusions of such agencies with respect to*
20 *such study, together with such recommendations for*
21 *administrative or legislative changes as the agencies*
22 *determine to be appropriate.*

1 ***Subtitle F—Criminal History***
2 ***Background Checks***

3 **SEC. 2141. SHORT TITLE.**

4 *This subtitle may be cited as the “Criminal History*
5 *Access Means Protection of Infrastructures and Our Nation*
6 *Act”.*

7 **SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.**

8 *(a) IN GENERAL.—Section 534 of title 28, United*
9 *States Code, is amended by adding at the end the following:*

10 *“(f)(1) Under rules prescribed by the Attorney General,*
11 *the Attorney General shall, within 60 days after the date*
12 *of enactment, initiate a 180-day pilot program to establish*
13 *and maintain a system for providing to an employer crimi-*
14 *nal history information that—*

15 *“(A) is in the possession of the Attorney General;*
16 *and*

17 *“(B) is requested by an employer as part of an*
18 *employee criminal history investigation that has been*
19 *authorized by the State where the employee works or*
20 *where the employer has their principal place of busi-*
21 *ness;*

22 *in order to ensure that a prospective employee is suitable*
23 *for certain employment positions.*

24 *“(2) The Attorney General shall require that an em-*
25 *ployer seeking criminal history information of an employee*

1 *request such information and submit fingerprints or other*
2 *biometric identifiers as approved by the Attorney General*
3 *to provide a positive and reliable identification of such pro-*
4 *spective employee.*

5 “(3) *The Director of the Federal Bureau of Investiga-*
6 *tion may require an employer to pay a reasonable fee for*
7 *such information.*

8 “(4) *Upon receipt of fingerprints or other biometric*
9 *identifiers, the Attorney General shall conduct an Inte-*
10 *grated Fingerprint Identification System of the Federal*
11 *Bureau of Investigation (IAFIS) check and provide the re-*
12 *sults of such check to the requester.*

13 “(5) *As used in this subsection,*

14 “(A) *the term ‘criminal history information’ and*
15 *‘criminal history records’ includes—*

16 “(i) *an identifying description of the indi-*
17 *vidual to whom it pertains;*

18 “(ii) *notations of arrests, detentions, indict-*
19 *ments, or other formal criminal charges per-*
20 *taining to such individual; and*

21 “(iii) *any disposition to a notation revealed*
22 *in subparagraph (B), including acquittal, sen-*
23 *tencing, correctional supervision, or release.*

24 “(B) *the term ‘Integrated Automated Finger-*
25 *print Identification System of the Federal Bureau of*

1 *Investigation (IAFIS)’ means the national depository*
2 *for fingerprint, biometric, and criminal history infor-*
3 *mation, through which fingerprints are processed elec-*
4 *tronically.*

5 *“(6) Nothing in this subsection shall preclude the At-*
6 *torney General from authorizing or requiring criminal his-*
7 *tory record checks on individuals employed or seeking em-*
8 *ployment in positions vital to the Nation’s critical infra-*
9 *structure or key resources as those terms are defined in sec-*
10 *tion 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e))*
11 *and section 2(9) of the Homeland Security Act of 2002 (6*
12 *U.S.C. 101(9)), if pursuant to a law or Executive order.”.*

13 *(b) REPORT TO CONGRESS.—*

14 *(1) IN GENERAL.—Not later than 60 days after*
15 *the conclusion of the pilot program, the Attorney Gen-*
16 *eral shall report to the appropriate committees of*
17 *Congress regarding all statutory requirements for*
18 *criminal history record checks that are required to be*
19 *conducted by the Department of Justice or any of its*
20 *components.*

21 *(2) IDENTIFICATION OF INFORMATION.—The At-*
22 *torney General shall identify the number of records*
23 *requested, including the type of information requested,*
24 *usage of different terms and definitions regarding*
25 *criminal history information, and the variation in*

1 *fees charged for such information and who pays such*
2 *fees.*

3 (3) *RECOMMENDATIONS.*—*The Attorney General*
4 *shall make recommendations for consolidating the ex-*
5 *isting procedures into a unified procedure consistent*
6 *with that provided in section 534(f) of title 28,*
7 *United States Code, as amended by this subtitle. In*
8 *making the recommendations to Congress, the Attor-*
9 *ney General shall consider—*

10 (A) *the effectiveness of utilizing commer-*
11 *cially available databases as a supplement to*
12 *IAFIS criminal history information checks;*

13 (B) *the effectiveness of utilizing State data-*
14 *bases as a supplement to IAFIS criminal history*
15 *information checks;*

16 (C) *any feasibility studies by the Depart-*
17 *ment of Justice of the FBI's resources and struc-*
18 *ture to establish a system to provide criminal*
19 *history information; and*

20 (D) *privacy rights and other employee pro-*
21 *tections to include employee consent, access to the*
22 *records used if employment was denied, an ap-*
23 *peal mechanism, and penalties for misuse of the*
24 *information.*

1 **SEC. 2143. PROTECT ACT.**

2 *Public law 108–21 is amended—*

3 *(1) in section 108(a)(2)(A) by striking “an 18*
4 *month” and inserting “a 30-month”; and*

5 *(2) in section 108(a)(3)(A) by striking “an 18-*
6 *month” and inserting “a 30-month”.*

7 **SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLI-**
8 **CANTS FOR PRIVATE SECURITY OFFICER EM-**
9 **PLOYMENT.**

10 *(a) SHORT TITLE.—This section may be cited as the*
11 *“Private Security Officer Employment Authorization Act*
12 *of 2004”.*

13 *(b) FINDINGS.—Congress finds that—*

14 *(1) employment of private security officers in the*
15 *United States is growing rapidly;*

16 *(2) private security officers function as an ad-*
17 *adjunct to, but not a replacement for, public law en-*
18 *forcement by helping to reduce and prevent crime;*

19 *(3) such private security officers protect individ-*
20 *uals, property, and proprietary information, and*
21 *provide protection to such diverse operations as*
22 *banks, hospitals, research and development centers,*
23 *manufacturing facilities, defense and aerospace con-*
24 *tractors, high technology businesses, nuclear power*
25 *plants, chemical companies, oil and gas refineries,*
26 *airports, communication facilities and operations, of-*

1 *office complexes, schools, residential properties, apart-*
2 *ment complexes, gated communities, and others;*

3 *(4) sworn law enforcement officers provide sig-*
4 *nificant services to the citizens of the United States*
5 *in its public areas, and are supplemented by private*
6 *security officers;*

7 *(5) the threat of additional terrorist attacks re-*
8 *quires cooperation between public and private sectors*
9 *and demands professional, reliable, and responsible*
10 *security officers for the protection of people, facilities,*
11 *and institutions;*

12 *(6) the trend in the Nation toward growth in*
13 *such security services has accelerated rapidly;*

14 *(7) such growth makes available more public sec-*
15 *tor law enforcement officers to combat serious and*
16 *violent crimes, including terrorism;*

17 *(8) the American public deserves the employment*
18 *of qualified, well-trained private security personnel as*
19 *an adjunct to sworn law enforcement officers; and*

20 *(9) private security officers and applicants for*
21 *private security officer positions should be thoroughly*
22 *screen and trained.*

23 *(c) DEFINITIONS.—In this Act:*

1 (1) *EMPLOYEE*.—The term “employee” includes
2 both a current employee and an applicant for em-
3 ployment as a private security officer.

4 (2) *AUTHORIZED EMPLOYER*.—The term “au-
5 thorized employer” means any person that—

6 (A) employs private security officers; and

7 (B) is authorized by regulations promul-
8 gated by the Attorney General to request a crimi-
9 nal history record information search of an em-
10 ployee through a State identification bureau
11 pursuant to this section.

12 (3) *PRIVATE SECURITY OFFICER*.—The term
13 “private security officer”—

14 (A) means an individual other than an em-
15 ployee of a Federal, State, or local government,
16 whose primary duty is to perform security serv-
17 ices, full- or part-time, for consideration, whether
18 armed or unarmed and in uniform or plain
19 clothes (except for services excluded from coverage
20 under this Act if the Attorney General deter-
21 mines by regulation that such exclusion would
22 serve the public interest); but

23 (B) does not include—

24 (i) employees whose duties are pri-
25 marily internal audit or credit functions;

1 (ii) employees of electronic security
2 system companies acting as technicians or
3 monitors; or

4 (iii) employees whose duties primarily
5 involve the secure movement of prisoners.

6 (4) SECURITY SERVICES.—The term “security
7 services” means acts to protect people or property as
8 defined by regulations promulgated by the Attorney
9 General.

10 (5) STATE IDENTIFICATION BUREAU.—The term
11 “State identification bureau” means the State entity
12 designated by the Attorney General for the submission
13 and receipt of criminal history record information.

14 (d) CRIMINAL HISTORY RECORD INFORMATION
15 SEARCH.—

16 (1) IN GENERAL.—

17 (A) SUBMISSION OF FINGERPRINTS.—An
18 authorized employer may submit to the State
19 identification bureau of a participating State,
20 fingerprints or other means of positive identi-
21 fication, as determined by the Attorney General,
22 of an employee of such employer for purposes of
23 a criminal history record information search
24 pursuant to this Act.

25 (B) EMPLOYEE RIGHTS.—

1 (i) *PERMISSION.*—An authorized em-
2 ployer shall obtain written consent from an
3 employee to submit to the State identifica-
4 tion bureau of a participating State the re-
5 quest to search the criminal history record
6 information of the employee under this Act.

7 (ii) *ACCESS.*—An authorized employer
8 shall provide to the employee confidential
9 access to any information relating to the
10 employee received by the authorized em-
11 ployer pursuant to this Act.

12 (C) *PROVIDING INFORMATION TO THE*
13 *STATE IDENTIFICATION BUREAU.*—Upon receipt
14 of a request for a criminal history record infor-
15 mation search from an authorized employer pur-
16 suant to this Act, submitted through the State
17 identification bureau of a participating State,
18 the Attorney General shall—

19 (i) search the appropriate records of
20 the Criminal Justice Information Services
21 Division of the Federal Bureau of Investiga-
22 tion; and

23 (ii) promptly provide any resulting
24 identification and criminal history record

1 *information to the submitting State identi-*
2 *fication bureau requesting the information.*

3 *(D) USE OF INFORMATION.—*

4 *(i) IN GENERAL.—Upon receipt of the*
5 *criminal history record information from*
6 *the Attorney General by the State identi-*
7 *fication bureau, the information shall be*
8 *used only as provided in clause (ii).*

9 *(ii) TERMS.—In the case of—*

10 *(I) a participating State that has*
11 *no State standards for qualification to*
12 *be a private security officer, the State*
13 *shall notify an authorized employer as*
14 *to the fact of whether an employee has*
15 *been—*

16 *(aa) convicted of a felony, an*
17 *offense involving dishonesty or a*
18 *false statement if the conviction*
19 *occurred during the previous 10*
20 *years, or an offense involving the*
21 *use or attempted use of physical*
22 *force against the person of another*
23 *if the conviction occurred during*
24 *the previous 10 years; or*

1 *(bb) charged with a criminal*
2 *felony for which there has been no*
3 *resolution during the preceding*
4 *365 days; or*

5 *(II) a participating State that*
6 *has State standards for qualification to*
7 *be a private security officer, the State*
8 *shall use the information received pur-*
9 *suant to this Act in applying the State*
10 *standards and shall only notify the*
11 *employer of the results of the applica-*
12 *tion of the State standards.*

13 *(E) FREQUENCY OF REQUESTS.—An au-*
14 *thorized employer may request a criminal his-*
15 *tory record information search for an employee*
16 *only once every 12 months of continuous employ-*
17 *ment by that employee unless the authorized em-*
18 *ployer has good cause to submit additional re-*
19 *quests.*

20 *(2) REGULATIONS.—Not later than 180 days*
21 *after the date of enactment of this Act, the Attorney*
22 *General shall issue such final or interim final regula-*
23 *tions as may be necessary to carry out this Act,*
24 *including—*

1 (A) *measures relating to the security, con-*
2 *fidentiality, accuracy, use, submission, dissemi-*
3 *nation, destruction of information and audits,*
4 *and record keeping;*

5 (B) *standards for qualification as an au-*
6 *thorized employer; and*

7 (C) *the imposition of reasonable fees nec-*
8 *essary for conducting the background checks.*

9 (3) *CRIMINAL PENALTIES FOR USE OF INFORMA-*
10 *TION.—Whoever knowingly and intentionally uses*
11 *any information obtained pursuant to this Act other*
12 *than for the purpose of determining the suitability of*
13 *an individual for employment as a private security*
14 *officer shall be fined under title 18, United States*
15 *Code, or imprisoned for not more than 2 years, or*
16 *both.*

17 (4) *USER FEES.—*

18 (A) *IN GENERAL.—The Director of the Fed-*
19 *eral Bureau of Investigation may—*

20 (i) *collect fees to process background*
21 *checks provided for by this Act; and*

22 (ii) *establish such fees at a level to in-*
23 *clude an additional amount to defray ex-*
24 *penses for the automation of fingerprint*

1 *identification and criminal justice informa-*
2 *tion services and associated costs.*

3 (B) *LIMITATIONS.*—*Any fee collected under*
4 *this subsection—*

5 (i) *shall, consistent with Public Law*
6 *101–515 and Public Law 104–99, be cred-*
7 *ited to the appropriation to be used for sal-*
8 *aries and other expenses incurred through*
9 *providing the services described in such*
10 *Public Laws and in subparagraph (A);*

11 (ii) *shall be available for expenditure*
12 *only to pay the costs of such activities and*
13 *services; and*

14 (iii) *shall remain available until ex-*
15 *pended.*

16 (C) *STATE COSTS.*—*Nothing in this Act*
17 *shall be construed as restricting the right of a*
18 *State to assess a reasonable fee on an authorized*
19 *employer for the costs to the State of admin-*
20 *istering this Act.*

21 (5) *STATE OPT OUT.*—*A State may decline to*
22 *participate in the background check system authorized*
23 *by this Act by enacting a law or issuing an order by*
24 *the Governor (if consistent with State law) providing*

1 *ployees or prospective employees of the private security*
 2 *guard service making the request pursuant to that section.*

3 ***Subtitle G—Protection of United***
 4 ***States Aviation System From***
 5 ***Terrorist Attacks***

6 ***SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR***
 7 ***OTHER TECHNOLOGY.***

8 *(a) USE OF BIOMETRIC TECHNOLOGY.—Section*
 9 *44903(h) of title 49, United States Code, is amended—*

10 *(1) in paragraph (4)(E) by striking “may pro-*
 11 *vide for” and inserting “shall issue, not later than*
 12 *120 days after the date of enactment of paragraph*
 13 *(5), guidance for”; and*

14 *(2) by adding at the end the following:*

15 *“(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-*
 16 *PORT ACCESS CONTROL SYSTEMS.—In issuing guid-*
 17 *ance under paragraph (4)(E), the Assistant Secretary*
 18 *of Homeland Security (Transportation Security Ad-*
 19 *ministration), in consultation with the Attorney Gen-*
 20 *eral, representatives of the aviation industry, the bio-*
 21 *metrics industry, and the National Institute of*
 22 *Standards and Technology, shall establish, at a*
 23 *minimum—*

24 *“(A) comprehensive technical and oper-*
 25 *ational system requirements and performance*

1 *standards for the use of biometrics in airport ac-*
2 *cess control systems (including airport perimeter*
3 *access control systems) to ensure that the biomet-*
4 *ric systems are effective, reliable, and secure;*

5 *“(B) a list of products and vendors that*
6 *meet such requirements and standards;*

7 *“(C) procedures for implementing biometric*
8 *systems—*

9 *“(i) to ensure that individuals do not*
10 *use an assumed identity to enroll in a bio-*
11 *metric system; and*

12 *“(ii) to resolve failures to enroll, false*
13 *matches, and false non-matches; and*

14 *“(D) best practices for incorporating bio-*
15 *metric technology into airport access control sys-*
16 *tems in the most effective manner, including a*
17 *process to best utilize existing airport access con-*
18 *trol systems, facilities, and equipment and exist-*
19 *ing data networks connecting airports.*

20 *“(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW*
21 *ENFORCEMENT OFFICER TRAVEL.—*

22 *“(A) IN GENERAL.—Not later than 120*
23 *days after the date of enactment of this para-*
24 *graph, the Assistant Secretary in consultation*
25 *with the Attorney General shall—*

1 “(i) *establish a law enforcement officer*
2 *travel credential that incorporates bio-*
3 *metrics and is uniform across all Federal,*
4 *State, and local government law enforce-*
5 *ment agencies;*

6 “(ii) *establish a process by which the*
7 *travel credential will be used to verify the*
8 *identity of a Federal, State, or local govern-*
9 *ment law enforcement officer seeking to*
10 *carry a weapon on board an aircraft, with-*
11 *out unnecessarily disclosing to the public*
12 *that the individual is a law enforcement of-*
13 *ficer;*

14 “(iii) *establish procedures—*

15 “(I) *to ensure that only Federal,*
16 *State, and local government law en-*
17 *forcement officers are issued the travel*
18 *credential;*

19 “(II) *to resolve failures to enroll,*
20 *false matches, and false non-matches*
21 *relating to use of the travel credential;*
22 *and*

23 “(III) *to invalidate any travel*
24 *credential that is lost, stolen, or no*
25 *longer authorized for use;*

1 “(iv) begin issuance of the travel cre-
2 dential to each Federal, State, and local
3 government law enforcement officer author-
4 ized by the Assistant Secretary to carry a
5 weapon on board an aircraft; and

6 “(v) take such other actions with re-
7 spect to the travel credential as the Sec-
8 retary considers appropriate.

9 “(B) FUNDING.—There are authorized to be
10 appropriated such sums as may be necessary to
11 carry out this paragraph.

12 “(7) DEFINITIONS.—In this subsection, the fol-
13 lowing definitions apply:

14 “(A) BIOMETRIC INFORMATION.—The term
15 ‘biometric information’ means the distinct phys-
16 ical or behavioral characteristics that are used
17 for identification, or verification of the identity,
18 of an individual.

19 “(B) BIOMETRICS.—The term ‘biometrics’
20 means a technology that enables the automated
21 identification, or verification of the identity, of
22 an individual based on biometric information.

23 “(C) FAILURE TO ENROLL.—The term ‘fail-
24 ure to enroll’ means the inability of an indi-
25 vidual to enroll in a biometric system due to an

1 *insufficiently distinctive biometric sample, the*
2 *lack of a body part necessary to provide the bio-*
3 *metric sample, a system design that makes it dif-*
4 *ficult to provide consistent biometric informa-*
5 *tion, or other factors.*

6 “(D) *FALSE MATCH.*—*The term ‘false*
7 *match’ means the incorrect matching of one indi-*
8 *vidual’s biometric information to another indi-*
9 *vidual’s biometric information by a biometric*
10 *system.*

11 “(E) *FALSE NON-MATCH.*—*The term ‘false*
12 *non-match’ means the rejection of a valid iden-*
13 *tity by a biometric system.*

14 “(F) *SECURE AREA OF AN AIRPORT.*—*The*
15 *term ‘secure area of an airport’ means the sterile*
16 *area and the Secure Identification Display Area*
17 *of an airport (as such terms are defined in sec-*
18 *tion 1540.5 of title 49, Code of Federal Regula-*
19 *tions, or any successor regulation to such sec-*
20 *tion).’.*

21 **(b) *FUNDING FOR USE OF BIOMETRIC TECHNOLOGY***
22 ***IN AIRPORT ACCESS CONTROL SYSTEMS.***—

23 (1) *GRANT AUTHORITY.*—*Section 44923(a) of*
24 *title 49, United States Code, is amended—*

1 (A) by striking “and” at the end of para-
2 graph (3);

3 (B) by redesignating paragraph (4) as
4 paragraph (5); and

5 (C) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) for projects to implement biometric tech-
8 nologies in accordance with guidance issued under
9 section 44903(h)(4)(E); and”.

10 (2) *AUTHORIZATION OF APPROPRIATIONS.*—Sec-
11 tion 44923(i)(1) of such title is amended by striking
12 “\$250,000,000 for each of fiscal years 2004 through
13 2007” and inserting “\$250,000,000 for fiscal year
14 2004, \$345,000,000 for fiscal year 2005, and
15 \$250,000,000 for each of fiscal years 2006 and 2007”.

16 **SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-**
17 **NING.**

18 Section 44904 of title 49, United States Code, is
19 amended—

20 (1) by redesignating subsection (c) as subsection
21 (e); and

22 (2) by inserting after subsection (b) the fol-
23 lowing:

24 “(c) *TRANSPORTATION SECURITY STRATEGIC PLAN-*
25 *NING.*—

1 “(1) *IN GENERAL.*—*The Secretary of Homeland*
2 *Security shall prepare and update, as needed, a*
3 *transportation sector specific plan and transportation*
4 *modal security plans in accordance with this section.*

5 “(2) *CONTENTS.*—*At a minimum, the modal se-*
6 *curity plan for aviation prepared under paragraph*
7 *(1) shall—*

8 “(A) *set risk-based priorities for defending*
9 *aviation assets;*

10 “(B) *select the most practical and cost-effec-*
11 *tive methods for defending aviation assets;*

12 “(C) *assign roles and missions to Federal,*
13 *State, regional, and local authorities and to*
14 *stakeholders;*

15 “(D) *establish a damage mitigation and re-*
16 *covery plan for the aviation system in the event*
17 *of a terrorist attack; and*

18 “(E) *include a threat matrix document that*
19 *outlines each threat to the United States civil*
20 *aviation system and the corresponding layers of*
21 *security in place to address such threat.*

22 “(3) *REPORTS.*—*Not later than 180 days after*
23 *the date of enactment of the subsection and annually*
24 *thereafter, the Secretary shall submit to the Com-*
25 *mittee on Transportation and Infrastructure of the*

1 *House of Representatives and the Committee on Com-*
 2 *merce, Science, and Transportation of the Senate a*
 3 *report containing the plans prepared under para-*
 4 *graph (1), including any updates to the plans. The*
 5 *report may be submitted in a classified format.*

6 “(d) *OPERATIONAL CRITERIA.*—Not later than 90 days
 7 after the date of submission of the report under subsection
 8 (c)(3), the Assistant Secretary of Homeland Security
 9 (Transportation Security Administration) shall issue oper-
 10 ational criteria to protect airport infrastructure and oper-
 11 ations against the threats identified in the plans prepared
 12 under subsection (c)(1) and shall approve best practices
 13 guidelines for airport assets.”.

14 **SEC. 2173. NEXT GENERATION AIRLINE PASSENGER**
 15 **PRESCREENING.**

16 (a) *IN GENERAL.*—Section 44903(j)(2) of title 49,
 17 United States Code, is amended by adding at the end the
 18 following:

19 “(C) *NEXT GENERATION AIRLINE PAS-*
 20 *SENGER PRESCREENING.*—

21 “(i) *COMMENCEMENT OF TESTING.*—
 22 Not later than November 1, 2004, the Assist-
 23 ant Secretary of Homeland Security
 24 (Transportation Security Administration),
 25 or the designee of the Assistant Secretary,

1 *shall commence testing of a next generation*
2 *passenger prescreening system that will*
3 *allow the Department of Homeland Secu-*
4 *rity to assume the performance of com-*
5 *paring passenger name records to the auto-*
6 *matic selectee and no fly lists, utilizing all*
7 *appropriate records in the consolidated and*
8 *integrated terrorist watchlist maintained by*
9 *the Federal Government.*

10 “(i) *ASSUMPTION OF FUNCTION.*—*Not*
11 *later than 180 days after completion of test-*
12 *ing under clause (i), the Assistant Sec-*
13 *retary, or the designee of the Assistant Sec-*
14 *retary, shall assume the performance of the*
15 *passenger prescreening function of com-*
16 *paring passenger name records to the auto-*
17 *matic selectee and no fly lists and utilize all*
18 *appropriate records in the consolidated and*
19 *integrated terrorist watchlist maintained by*
20 *the Federal Government in performing that*
21 *function.*

22 “(iii) *REQUIREMENTS.*—*In assuming*
23 *performance of the function under clause*
24 *(i), the Assistant Secretary shall—*

1 “(I) establish a procedure to en-
2 able airline passengers, who are de-
3 layed or prohibited from boarding a
4 flight because the next generation pas-
5 senger prescreening system determined
6 that they might pose a security threat,
7 to appeal such determination and cor-
8 rect information contained in the sys-
9 tem;

10 “(II) ensure that Federal Govern-
11 ment databases that will be used to es-
12 tablish the identity of a passenger
13 under the system will not produce a
14 large number of false positives;

15 “(III) establish an internal over-
16 sight board to oversee and monitor the
17 manner in which the system is being
18 implemented;

19 “(IV) establish sufficient oper-
20 ational safeguards to reduce the oppor-
21 tunities for abuse;

22 “(V) implement substantial secu-
23 rity measures to protect the system
24 from unauthorized access;

1 “(VI) *adopt policies establishing*
2 *effective oversight of the use and oper-*
3 *ation of the system; and*

4 “(VII) *ensure that there are no*
5 *specific privacy concerns with the tech-*
6 *nological architecture of the system.*

7 “(iv) *PASSENGER NAME RECORDS.—*
8 *Not later than 60 days after the completion*
9 *of the testing of the next generation pas-*
10 *senger prescreening system, the Assistant*
11 *Secretary shall require air carriers to sup-*
12 *ply to the Assistant Secretary the passenger*
13 *name records needed to begin implementing*
14 *the next generation passenger prescreening*
15 *system.*

16 “(D) *PRESCREENING INTERNATIONAL PAS-*
17 *SENGERS.—Not later than 60 days after date of*
18 *enactment of this subparagraph, the Secretary of*
19 *Homeland Security, or the designee of the Sec-*
20 *retary, shall issue a notice of proposed rule-*
21 *making that will allow the Department of Home-*
22 *land Security to compare passenger name*
23 *records for any international flight to or from*
24 *the United States against the consolidated and*
25 *integrated terrorist watchlist maintained by the*

1 *Federal Government before departure of the*
2 *flight.*

3 “(E) *SCREENING OF EMPLOYEES AGAINST*
4 *WATCHLIST.—The Assistant Secretary of Home-*
5 *land Security (Transportation Security Admin-*
6 *istration), in coordination with the Secretary of*
7 *Transportation and the Administrator of the*
8 *Federal Aviation Administration, shall ensure*
9 *that individuals are screened against all appro-*
10 *priate records in the consolidated and integrated*
11 *terrorist watchlist maintained by the Federal*
12 *Government before—*

13 “(i) *being certificated by the Federal*
14 *Aviation Administration;*

15 “(ii) *being issued a credential for ac-*
16 *cess to the secure area of an airport; or*

17 “(iii) *being issued a credential for ac-*
18 *cess to the air operations area (as defined*
19 *in section 1540.5 of title 49, Code of Federal*
20 *Regulations, or any successor regulation to*
21 *such section) of an airport.*

22 “(F) *APPEAL PROCEDURES.—*

23 “(i) *IN GENERAL.—The Assistant Sec-*
24 *retary shall establish a timely and fair*
25 *process for individuals identified as a threat*

1 under one or more of subparagraphs (C),
2 (D), and (E) to appeal to the Transpor-
3 tation Security Administration the deter-
4 mination and correct any erroneous infor-
5 mation.

6 “(ii) RECORDS.—The process shall in-
7 clude the establishment of a method by
8 which the Assistant Secretary will be able to
9 maintain a record of air passengers who
10 have been misidentified and have corrected
11 erroneous information. To prevent repeated
12 delays of misidentified passengers, the
13 Transportation Security Administration
14 record shall contain information determined
15 by the Assistant Secretary to authenticate
16 the identity of such a passenger.

17 “(G) DEFINITION.—In this paragraph, the
18 term ‘secure area of an airport’ means the sterile
19 area and the Secure Identification Display Area
20 of an airport (as such terms are defined in sec-
21 tion 1540.5 of title 49, Code of Federal Regula-
22 tions, or any successor regulation to such sec-
23 tion).”.

24 (b) GAO REPORT.—

1 (1) *IN GENERAL.*—Not later than 90 days after
2 the date on which the Assistant Secretary of Home-
3 land Security (Transportation Security Administra-
4 tion) assumes performance of the passenger
5 prescreening function under section 44903(j)(2)(C)(ii)
6 of title 49, United States Code, the Comptroller Gen-
7 eral shall submit to the appropriate congressional
8 committees a report on the assumption of such func-
9 tion. The report may be submitted in a classified for-
10 mat.

11 (2) *CONTENTS.*—The report under paragraph (1)
12 shall address—

13 (A) *whether a system exists in the next gen-*
14 *eration passenger prescreening system whereby*
15 *aviation passengers, determined to pose a threat*
16 *and either delayed or prohibited from boarding*
17 *their scheduled flights by the Transportation Se-*
18 *curity Administration, may appeal such a deci-*
19 *sion and correct erroneous information;*

20 (B) *the sufficiency of identifying informa-*
21 *tion contained in passenger name records and*
22 *any government databases for ensuring that a*
23 *large number of false positives will not result*
24 *under the next generation passenger prescreening*
25 *system in a significant number of passengers*

1 *being treated as a threat mistakenly or in secu-*
2 *rity resources being diverted;*

3 *(C) whether the Transportation Security*
4 *Administration stress tested the next generation*
5 *passenger prescreening system;*

6 *(D) whether an internal oversight board has*
7 *been established in the Department of Homeland*
8 *Security to monitor the next generation pas-*
9 *senger prescreening system;*

10 *(E) whether sufficient operational safe-*
11 *guards have been established to prevent the op-*
12 *portunities for abuse of the system;*

13 *(F) whether substantial security measures*
14 *are in place to protect the passenger prescreening*
15 *database from unauthorized access;*

16 *(G) whether policies have been adopted for*
17 *the effective oversight of the use and operation of*
18 *the system;*

19 *(H) whether specific privacy concerns still*
20 *exist with the system; and*

21 *(I) whether appropriate life cycle cost esti-*
22 *mates have been developed, and a benefit and*
23 *cost analysis has been performed, for the system.*

1 **SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-**
2 **TION EQUIPMENT AT AIRPORT SCREENING**
3 **CHECKPOINTS.**

4 (a) *NONMETALLIC WEAPONS AND EXPLOSIVES.*—*In*
5 *order to improve security, the Assistant Secretary of Home-*
6 *land Security (Transportation Security Administration)*
7 *shall give priority to developing, testing, improving, and*
8 *deploying technology at screening checkpoints at airports*
9 *that will detect nonmetallic weapons and explosives on the*
10 *person of individuals, in their clothing, or in their carry-*
11 *on baggage or personal property and shall ensure that the*
12 *equipment alone, or as part of an integrated system, can*
13 *detect under realistic operating conditions the types of non-*
14 *metallic weapons and explosives that terrorists would likely*
15 *try to smuggle aboard an air carrier aircraft.*

16 (b) *STRATEGIC PLAN FOR DEPLOYMENT AND USE OF*
17 *EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREEN-*
18 *ING CHECKPOINTS.*—

19 (1) *IN GENERAL.*—*Not later than 90 days after*
20 *the date of enactment of this Act, the Assistant Sec-*
21 *retary shall transmit to the appropriate congressional*
22 *committees a strategic plan to promote the optimal*
23 *utilization and deployment of explosive detection de-*
24 *vices at airports to screen individuals and their*
25 *carry-on baggage or personal property, including*
26 *walk-through explosive detection portals, document*

1 *scanners, shoe scanners, backscatter x-ray scanners,*
2 *and any other explosive detection equipment for use*
3 *at a screening checkpoint. The plan may be trans-*
4 *mitted in a classified format.*

5 (2) *CONTENTS.—The strategic plan shall include*
6 *descriptions of the operational applications of explo-*
7 *sive detection equipment at airport screening check-*
8 *points, a deployment schedule and quantities of*
9 *equipment needed to implement the plan, and fund-*
10 *ing needs for implementation of the plan, including*
11 *a financing plan that provides for leveraging non-*
12 *Federal funding.*

13 **SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-**
14 **RESISTANT CARGO AND BAGGAGE CON-**
15 **TAINERS.**

16 (a) *IN GENERAL.—Beginning not later than 180 days*
17 *after the date of enactment of this Act, the Assistant Sec-*
18 *retary of Homeland Security (Transportation Security Ad-*
19 *ministration) shall carry out a pilot program to evaluate*
20 *the use of blast-resistant containers for cargo and baggage*
21 *on passenger aircraft to minimize the potential effects of*
22 *detonation of an explosive device.*

23 (b) *INCENTIVES FOR PARTICIPATION IN PILOT PRO-*
24 *GRAM.—*

1 (1) *IN GENERAL.*—As part of the pilot program,
2 the Assistant Secretary shall provide incentives to air
3 carriers to volunteer to test the use of blast-resistant
4 containers for cargo and baggage on passenger air-
5 craft.

6 (2) *APPLICATIONS.*—To volunteer to participate
7 in the incentive program, an air carrier shall submit
8 to the Assistant Secretary an application that is in
9 such form and contains such information as the As-
10 sistant Secretary requires.

11 (3) *TYPES OF ASSISTANCE.*—Assistance provided
12 by the Assistant Secretary to air carriers that volun-
13 teer to participate in the pilot program shall include
14 the use of blast-resistant containers and financial as-
15 sistance to cover increased costs to the carriers associ-
16 ated with the use and maintenance of the containers,
17 including increased fuel costs.

18 (c) *REPORT.*—Not later than one year after the date
19 of enactment of this Act, the Assistant Secretary shall sub-
20 mit to appropriate congressional committees a report on the
21 results of the pilot program.

22 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There are
23 authorized to be appropriated to carry out this section
24 \$2,000,000. Such sums shall remain available until ex-
25 pende.

1 **SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

2 *The Transportation Security Administration shall de-*
3 *velop technology to better identify, track, and screen air*
4 *cargo.*

5 **SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**
6 **DETECTION.**

7 *Section 44940 of title 49, United States Code, is*
8 *amended by adding at the end the following:*

9 *“(i) CHECKPOINT SCREENING SECURITY FUND.—*

10 *“(1) ESTABLISHMENT.—There is established in*
11 *the Department of Homeland Security a fund to be*
12 *known as the ‘Checkpoint Screening Security Fund’.*

13 *“(2) DEPOSITS.—In each of fiscal years 2005*
14 *and 2006, after amounts are made available under*
15 *section 44923(h), the next \$30,000,000 derived from*
16 *fees received under subsection (a)(1) shall be available*
17 *to be deposited in the Fund.*

18 *“(3) FEES.—The Secretary of Homeland Secu-*
19 *rity shall impose the fee authorized by subsection*
20 *(a)(1) so as to collect at least \$30,000,000 in each of*
21 *fiscal years 2005 and 2006 for deposit into the Fund.*

22 *“(4) AVAILABILITY OF AMOUNTS.—Amounts in*
23 *the Fund shall be available for the purchase, deploy-*
24 *ment, and installation of equipment to improve the*
25 *ability of security screening personnel at screening*
26 *checkpoints to detect explosives.”.*

1 **SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

2 (a) *PILOT PROGRAM.*—*The Transportation Security*
 3 *Administration shall develop, not later than 120 days after*
 4 *the date of enactment of this Act, and conduct a pilot pro-*
 5 *gram to test, integrate, and deploy next generation security*
 6 *checkpoint screening technology at not less than 5 airports*
 7 *in the United States.*

8 (b) *HUMAN FACTOR STUDIES.*—*The Administration*
 9 *shall conduct human factors studies to improve screener*
 10 *performance as part of the pilot program under subsection*
 11 *(a).*

12 **SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT**
 13 **DOOR.**

14 (a) *CIVIL PENALTY.*—*Section 46301(a) of title 49,*
 15 *United States Code, is amended by adding at the end the*
 16 *following:*

17 “(6) *PENALTY FOR FAILURE TO SECURE FLIGHT*
 18 *DECK DOOR.*—*Any person holding a part 119 certifi-*
 19 *cate under part of title 14, Code of Federal Regula-*
 20 *tions, is liable to the Government for a civil penalty*
 21 *of not more than \$25,000 for each violation, by the*
 22 *pilot in command of an aircraft owned or operated*
 23 *by such person, of any Federal regulation that re-*
 24 *quires that the flight deck door be closed and locked*
 25 *when the aircraft is being operated.”.*

26 (b) *TECHNICAL CORRECTIONS.*—

1 (1) *COMPROMISE AND SETOFF FOR FALSE INFOR-*
2 *MATION.—Section 46302(b)(1) of such title is amend-*
3 *ed by striking “Secretary of Transportation” and in-*
4 *serting “Secretary of Homeland Security and, for a*
5 *violation relating to section 46504, the Secretary of*
6 *Transportation,”.*

7 (2) *CARRYING A WEAPON.—Section 46303 of*
8 *such title is amended—*

9 (A) *in subsection (b)(1) by striking “Sec-*
10 *retary of Transportation” and inserting “Sec-*
11 *retary of Homeland Security”;* and

12 (B) *in subsection (c)(2) by striking “Under*
13 *Secretary of Transportation for Security” and*
14 *inserting “Secretary of Homeland Security”.*

15 (3) *ADMINISTRATIVE IMPOSITION OF PEN-*
16 *ALTIES.—Section 46301(d) of such title is amended—*

17 (A) *in the first sentence of paragraph (2) by*
18 *striking “46302, 46303,” and inserting “46302*
19 *(for a violation relating to section 46504),”;*

20 (B) *in the second sentence of paragraph*
21 (2)—

22 (i) *by striking “Under Secretary of*
23 *Transportation for Security” and inserting*
24 *“Secretary of Homeland Security”;* and

1 (ii) by striking “44909” and inserting
2 “44909), 46302 (except for a violation relat-
3 ing to section 46504), 46303,”;

4 (C) in each of paragraphs (2), (3), and (4)
5 by striking “Under Secretary or” and inserting
6 “Secretary of Homeland Security or”; and

7 (D) in paragraph (4)(A) by moving clauses
8 (i), (ii), and (iii) 2 ems to the left.

9 **SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.**

10 *The Director of the Federal Air Marshal Service of the*
11 *Department of Homeland Security shall continue to develop*
12 *operational initiatives to protect the anonymity of Federal*
13 *air marshals.*

14 **SEC. 2181. FEDERAL LAW ENFORCEMENT**
15 **COUNTERTERRORISM TRAINING.**

16 (a) *The Assistant Secretary for Immigration and Cus-*
17 *toms Enforcement and the Director of Federal Air Marshal*
18 *Service of the Department of Homeland Security, in coordi-*
19 *nation with the Assistant Secretary of Homeland Security*
20 *(Transportation Security Administration), shall make*
21 *available appropriate in-flight counterterrorism and weap-*
22 *ons handling procedures and tactics training to Federal law*
23 *enforcement officers who fly while on duty.*

24 (b) *The Assistant Secretary for Immigration and Cus-*
25 *toms Enforcement and the Director of Federal Air Marshal*

1 *Service of the Department of Homeland Security, in coordi-*
2 *nation with the Assistant Secretary of Homeland Security*
3 *(Transportation Security Administration), shall ensure*
4 *that Transportation Security Administration screeners and*
5 *Federal Air Marshals receive training in identifying fraud-*
6 *ulent identification documents, including fraudulent or ex-*
7 *pired Visas and Passports. Such training shall also be made*
8 *available to other Federal law enforcement agencies and*
9 *local law enforcement agencies located in border states.*

10 **SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**
11 **RIAGE PILOT PROGRAM.**

12 (a) *IN GENERAL.*—*Not later than 90 days after the*
13 *date of enactment of this Act, the Assistant Secretary of*
14 *Homeland Security (Transportation Security Administra-*
15 *tion) shall implement a pilot program to allow pilots par-*
16 *ticipating in the Federal flight deck officer program to*
17 *transport their firearms on their persons. The Assistant*
18 *Secretary may prescribe any training, equipment, or proce-*
19 *dures including procedures for reporting of missing, lost or*
20 *stolen firearms, that the Assistant Secretary determines nec-*
21 *essary to ensure safety and maximize weapon retention.*

22 (b) *REVIEW.*—*Not later than 1 year after the date of*
23 *initiation of the pilot program, the Assistant Secretary*
24 *shall conduct a review of the safety record of the pilot pro-*

1 gram and transmit a report on the results of the review
2 to the appropriate congressional committees.

3 (c) *OPTION.*—If the Assistant Secretary as part of the
4 review under subsection (b) determines that the safety level
5 obtained under the pilot program is comparable to the safe-
6 ty level determined under existing methods of pilots car-
7 rying firearms on aircraft, the Assistant Secretary shall
8 allow all pilots participating in the Federal flight deck offi-
9 cer program the option of carrying their firearm on their
10 person subject to such requirements as the Assistant Sec-
11 retary determines appropriate.

12 **SEC. 2183. REGISTERED TRAVELER PROGRAM.**

13 The Transportation Security Administration shall ex-
14 pedite implementation of the registered traveler program.

15 **SEC. 2184. WIRELESS COMMUNICATION.**

16 (a) *STUDY.*—The Transportation Security Adminis-
17 tration, in consultation with the Federal Aviation Adminis-
18 tration, shall conduct a study to determine the viability of
19 providing devices or methods, including wireless methods,
20 to enable a flight crew to discreetly notify the pilot in the
21 case of a security breach or safety issue occurring in the
22 cabin.

23 (b) *MATTERS TO BE CONSIDERED.*—In conducting the
24 study, the Transportation Security Administration and the
25 Federal Aviation Administration shall consider technology

1 *that is readily available and can be quickly integrated and*
2 *customized for use aboard aircraft for flight crew commu-*
3 *nication.*

4 *(c) REPORT.—Not later than 180 days after the date*
5 *of enactment of this Act, the Transportation Security Ad-*
6 *ministration shall submit to the appropriate congressional*
7 *committees a report on the results of the study.*

8 **SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

9 *Not later than 6 months after the date of enactment*
10 *of this Act, the Assistant Secretary of Homeland Security*
11 *(Transportation Security Administration) shall transmit to*
12 *the appropriate congressional committees a report on the*
13 *costs and benefits associated with the use of secondary flight*
14 *deck barriers and whether the use of such barriers should*
15 *be mandated for all air carriers. The Assistant Secretary*
16 *may transmit the report in a classified format.*

17 **SEC. 2186. EXTENSION.**

18 *Section 48301(a) of title 49, United States Code, is*
19 *amended by striking “and 2005” and inserting “2005, and*
20 *2006”.*

21 **SEC. 2187. PERIMETER SECURITY.**

22 *(a) REPORT.—Not later than 180 days after the date*
23 *of enactment of this Act, the Assistant Secretary of Home-*
24 *land Security (Transportation Security Administration),*
25 *in consultation with airport operators and law enforcement*

1 *authorities, shall develop and submit to the appropriate*
2 *congressional committee a report on airport perimeter secu-*
3 *rity. The report may be submitted in a classified format.*

4 *(b) CONTENTS.—The report shall include—*

5 *(1) an examination of the feasibility of access*
6 *control technologies and procedures, including the use*
7 *of biometrics and other methods of positively identi-*
8 *fying individuals prior to entry into secure areas of*
9 *airports, and provide best practices for enhanced pe-*
10 *rimeter access control techniques; and*

11 *(2) an assessment of the feasibility of physically*
12 *screening all individuals prior to entry into secure*
13 *areas of an airport and additional methods for*
14 *strengthening the background vetting process for all*
15 *individuals credentialed to gain access to secure areas*
16 *of airports.*

17 **SEC. 2188. IN-LINE CHECKED BAGGAGE SCREENING.**

18 *The Secretary of Homeland Security shall take such*
19 *action as may be necessary to expedite the installation and*
20 *use of advanced in-line baggage-screening equipment at*
21 *commercial airports.*

22 **SEC. 2189. DEFINITIONS.**

23 *In this title, the following definitions apply:*

24 *(1) APPROPRIATE CONGRESSIONAL COM-*
25 *MITTEE.—The term “appropriate congressional com-*

1 *mittees” means the Committee on Transportation and*
 2 *Infrastructure of the House of Representatives and the*
 3 *Committee on Commerce, Science, and Transpor-*
 4 *tation of the Senate.*

5 (2) *AIR CARRIER.*—*The term “air carrier” has*
 6 *the meaning such term has under section 40102 of*
 7 *title 49, United States Code.*

8 (3) *SECURE AREA OF AN AIRPORT.*—*The term*
 9 *“secure area of an airport” means the sterile area*
 10 *and the Secure Identification Display Area of an air-*
 11 *port (as such terms are defined in section 1540.5 of*
 12 *title 49, Code of Federal Regulations, or any successor*
 13 *regulation to such section).*

14 ***Subtitle H—Other Matters***

15 ***SEC. 2191. GRAND JURY INFORMATION SHARING.***

16 (a) *RULE AMENDMENTS.*—*Rule 6(e) of the Federal*
 17 *Rules of Criminal Procedure is amended—*

18 (1) *in paragraph (3)—*

19 (A) *in subparagraph (A)(ii), by striking*
 20 *“or state subdivision or of an Indian tribe” and*
 21 *inserting “, state subdivision, Indian tribe, or*
 22 *foreign government”;*

23 (B) *in subparagraph (D)—*

24 (i) *by inserting after the first sentence*
 25 *the following: “An attorney for the govern-*

1 *ment may also disclose any grand-jury*
2 *matter involving a threat of actual or po-*
3 *tential attack or other grave hostile acts of*
4 *a foreign power or an agent of a foreign*
5 *power, domestic or international sabotage,*
6 *domestic or international terrorism, or*
7 *clandestine intelligence gathering activities*
8 *by an intelligence service or network of a*
9 *foreign power or by an agent of a foreign*
10 *power, within the United States or else-*
11 *where, to any appropriate Federal, State,*
12 *state subdivision, Indian tribal, or foreign*
13 *government official for the purpose of pre-*
14 *venting or responding to such a threat.”;*
15 *and*

16 *(ii) in clause (i)—*

17 *(I) by striking “federal”; and*

18 *(II) by adding at the end the fol-*
19 *lowing: “Any State, state subdivision,*
20 *Indian tribal, or foreign government*
21 *official who receives information under*
22 *Rule 6(e)(3)(D) may use the informa-*
23 *tion only consistent with such guide-*
24 *lines as the Attorney General and the*

1 *National Intelligence Director shall*
2 *jointly issue.”; and*

3 (C) *in subparagraph (E)—*

4 (i) *by redesignating clauses (iii) and*
5 *(iv) as clauses (iv) and (v), respectively;*

6 (ii) *by inserting after clause (ii) the*
7 *following:*

8 “*(iii) at the request of the government,*
9 *when sought by a foreign court or pros-*
10 *ecutor for use in an official criminal inves-*
11 *tigation;”;* and

12 (iii) *in clause (iv), as redesignated—*

13 (I) *by striking “state or Indian*
14 *tribal” and inserting “State, Indian*
15 *tribal, or foreign”;* and

16 (II) *by striking “or Indian tribal*
17 *official” and inserting “Indian tribal,*
18 *or foreign government official”;* and

19 (2) *in paragraph (7), by inserting “, or of guide-*
20 *lines jointly issued by the Attorney General and Di-*
21 *rector of Central Intelligence pursuant to Rule 6,”*
22 *after “Rule 6”.*

23 (b) *CONFORMING AMENDMENT.—Section 203(c) of*
24 *Public Law 107–56 (18 U.S.C. 2517 note) is amended by*

1 *striking “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserting*
2 *“Rule 6(e)(3)(D)”.*

3 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**
4 **TELLIGENCE DATA SYSTEM.**

5 *(a) FINDINGS.—The Congress finds as follows:*

6 *(1) The interoperable electronic data system*
7 *known as the “Chimera system”, and required to be de-*
8 *veloped and implemented by section 202(a)(2) of the*
9 *Enhanced Border Security and Visa Entry Reform*
10 *Act of 2002 (8 U.S.C. 1722(a)(2)), has not in any*
11 *way been implemented.*

12 *(2) Little progress has been made since the enact-*
13 *ment of such Act with regard to establishing a process*
14 *to connect existing trusted systems operated independ-*
15 *ently by the respective intelligence agencies.*

16 *(3) It is advisable, therefore, to assign such re-*
17 *sponsibility to the National Intelligence Director.*

18 *(4) The National Intelligence Director should,*
19 *pursuant to the amendments made by subsection (c),*
20 *begin systems planning immediately upon assuming*
21 *office to deliver an interim system not later than 1*
22 *year after the date of the enactment of this Act, and*
23 *to deliver the fully functional Chimera system not*
24 *later than September 11, 2007.*

1 (5) *Both the interim system, and the fully func-*
2 *tional Chimera system, should be designed so that in-*
3 *telligence officers, Federal law enforcement agencies*
4 *(as defined in section 2 of such Act (8 U.S.C. 1701)),*
5 *operational counter-terror support center personnel,*
6 *consular officers, and Department of Homeland Secu-*
7 *rity enforcement officers have access to them.*

8 (b) *PURPOSES.—The purposes of this section are as*
9 *follows:*

10 (1) *To provide the National Intelligence Director*
11 *with the necessary authority and resources to estab-*
12 *lish both an interim data system and, subsequently,*
13 *a fully functional Chimera system, to collect and*
14 *share intelligence and operational information with*
15 *the intelligence community (as defined in section 3(4)*
16 *of the National Security Act of 1947 (50 U.S.C.*
17 *401a(4)).*

18 (2) *To require the National Intelligence Director*
19 *to establish a state-of-the-art Chimera system with*
20 *both biometric identification and linguistic capabili-*
21 *ties satisfying the best technology standards.*

22 (3) *To ensure that the National Intelligence Cen-*
23 *ter will have a fully functional capability, not later*
24 *than September 11, 2007, for interoperable data and*

1 *intelligence exchange with the agencies of the intel-*
2 *ligence community (as so defined).*

3 *(c) AMENDMENTS.—*

4 *(1) IN GENERAL.—Title II of the Enhanced Bor-*
5 *der Security and Visa Entry Reform Act of 2002 (8*
6 *U.S.C. 1721 et seq.) is amended—*

7 *(A) in section 202(a)—*

8 *(i) by amending paragraphs (1) and*
9 *(2) to read as follows:*

10 *“(1) INTERIM INTEROPERABLE INTELLIGENCE*
11 *DATA EXCHANGE SYSTEM.—Not later than 1 year*
12 *after assuming office, the National Intelligence Direc-*
13 *tor shall establish an interim interoperable intel-*
14 *ligence data exchange system that will connect the*
15 *data systems operated independently by the entities*
16 *in the intelligence community and by the National*
17 *Counterterrorism Center, so as to permit automated*
18 *data exchange among all of these entities. Imme-*
19 *diately upon assuming office, the National Intel-*
20 *ligence Director shall begin the plans necessary to es-*
21 *tablish such interim system.*

22 *“(2) CHIMERA SYSTEM.—Not later than Sep-*
23 *tember 11, 2007, the National Intelligence Director*
24 *shall establish a fully functional interoperable law en-*
25 *forcement and intelligence electronic data system*

1 *within the National Counterterrorism Center to pro-*
2 *vide immediate access to information in databases of*
3 *Federal law enforcement agencies and the intelligence*
4 *community that is necessary to identify terrorists,*
5 *and organizations and individuals that support ter-*
6 *rorism. The system established under this paragraph*
7 *shall referred to as the ‘Chimera system’. ”;*

8 *(ii) in paragraph (3)—*

9 *(I) by striking “President” and*
10 *inserting “National Intelligence Direc-*
11 *tor”;* and

12 *(II) by striking “the data system”*
13 *and inserting “the interim system de-*
14 *scribed in paragraph (1) and the Chi-*
15 *mera system described in paragraph*
16 *(2)”;*

17 *(iii) in paragraph (4)(A), by striking*
18 *“The data system” and all that follows*
19 *through “(2),” and inserting “The interim*
20 *system described in paragraph (1) and the*
21 *Chimera system described in paragraph*
22 *(2)”;*

23 *(iv) in paragraph (5)—*

24 *(I) in the matter preceding sub-*
25 *paragraph (A), by striking “data sys-*

1 *tem under this subsection” and insert-*
2 *ing “Chimera system described in*
3 *paragraph (2)”;*

4 (II) *in subparagraph (B), by*
5 *striking “and” at the end;*

6 (III) *in subparagraph (C), by*
7 *striking the period at the end and in-*
8 *serting “; and”; and*

9 (IV) *by adding at the end the fol-*
10 *lowing:*

11 *“(D) to any Federal law enforcement or in-*
12 *telligence officer authorized to assist in the inves-*
13 *tigation, identification, or prosecution of terror-*
14 *ists, alleged terrorists, individuals supporting*
15 *terrorist activities, and individuals alleged to*
16 *support terrorist activities. ”; and*

17 (v) *in paragraph (6)—*

18 (I) *by striking “President” and*
19 *inserting “National Intelligence Direc-*
20 *tor”;*

21 (II) *by striking “the data system”*
22 *and all that follows through “(2),” and*
23 *inserting “the interim system described*
24 *in paragraph (1) and the Chimera sys-*
25 *tem described in paragraph (2)”;*

1 (B) in section 202(b)—

2 (i) in paragraph (1), by striking “The
3 interoperable” and all that follows through
4 “subsection (a)” and inserting “the Chi-
5 mera system described in subsection (a)(2)”;

6 (ii) in paragraph (2), by striking
7 “interoperable electronic database” and in-
8 serting “Chimera system described in sub-
9 section (a)(2)”;

10 (iii) by amending paragraph (4) to
11 read as follows:

12 “(4) *INTERIM REPORTS.*—Not later than 6
13 months after assuming office, the National Intel-
14 ligence Director shall submit a report to the appro-
15 priate committees of Congress on the progress in im-
16 plementing each requirement of this section.”;

17 (C) in section 204—

18 (i) by striking “Attorney General”
19 each place such term appears and inserting
20 “National Intelligence Director”;

21 (ii) in subsection (d)(1), by striking
22 “Attorney General’s” and inserting “Na-
23 tional Intelligence Director’s”;

24 (D) by striking section 203 and redesign-
25 ating section 204 as section 203.

1 (2) *CLERICAL AMENDMENT.*—*The table of con-*
2 *tents for the Enhanced Border Security and Visa*
3 *Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.) is*
4 *amended—*

5 *(A) by striking the item relating to section*
6 *203; and*

7 *(B) by redesignating the item relating to*
8 *section 204 as relating to section 203.*

9 **SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES**
10 **OF THE FEDERAL BUREAU OF INVESTIGA-**
11 **TION.**

12 (a) *FINDINGS.*—*Consistent with the report of the Na-*
13 *tional Commission on Terrorist Attacks Upon the United*
14 *States and to meet the intelligence needs of the United*
15 *States, Congress makes the following findings:*

16 (1) *The Federal Bureau of Investigation has*
17 *made significant progress in improving its intel-*
18 *ligence capabilities.*

19 (2) *The Federal Bureau of Investigation must*
20 *further enhance and fully institutionalize its ability*
21 *to prevent, preempt, and disrupt terrorist threats to*
22 *our homeland, our people, our allies, and our inter-*
23 *ests.*

24 (3) *The Federal Bureau of Investigation must*
25 *collect, process, share, and disseminate, to the greatest*

1 *extent permitted by applicable law, to the President,*
2 *the Vice President, and other officials in the Execu-*
3 *tive Branch, all terrorism information and other in-*
4 *formation necessary to safeguard our people and ad-*
5 *vance our national and homeland security interests.*

6 *(4) The Federal Bureau of Investigation must*
7 *move towards full and seamless coordination and co-*
8 *operation with all other elements of the Intelligence*
9 *Community, including full participation in, and sup-*
10 *port to, the National Counterterrorism Center.*

11 *(5) The Federal Bureau of Investigation must*
12 *strengthen its pivotal role in coordination and co-*
13 *operation with Federal, State, tribal, and local law*
14 *enforcement agencies to ensure the necessary sharing*
15 *of information for counterterrorism and criminal law*
16 *enforcement purposes.*

17 *(6) The Federal Bureau of Investigation must*
18 *perform its vital intelligence functions in a manner*
19 *consistent with both with national intelligence prior-*
20 *ities and respect for privacy and other civil liberties*
21 *under the Constitution and laws of the United States.*

22 *(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—*
23 *The Director of the Federal Bureau of Investigation shall*
24 *establish a comprehensive intelligence program for—*

1 (1) *intelligence analysis, including recruitment*
2 *and hiring of analysts, analyst training, priorities*
3 *and status for analysis, and analysis performance*
4 *measures;*

5 (2) *intelligence production, including product*
6 *standards, production priorities, information sharing*
7 *and dissemination, and customer satisfaction meas-*
8 *ures;*

9 (3) *production of intelligence that is responsive*
10 *to national intelligence requirements and priorities,*
11 *including measures of the degree to which each FBI*
12 *headquarters and field component is collecting and*
13 *providing such intelligence;*

14 (4) *intelligence sources, including source valida-*
15 *tion, new source development, and performance meas-*
16 *ures;*

17 (5) *field intelligence operations, including staff-*
18 *ing and infrastructure, management processes, prior-*
19 *ities, and performance measures;*

20 (6) *full and seamless coordination and coopera-*
21 *tion with the other components of the Intelligence*
22 *Community, consistent with their responsibilities;*
23 *and*

24 (7) *sharing of FBI intelligence and information*
25 *across Federal, state, and local governments, with the*

1 *private sector, and with foreign partners as provided*
2 *by law or by guidelines of the Attorney General.*

3 *(c) INTELLIGENCE DIRECTORATE.—The Director of the*
4 *Federal Bureau of Investigation shall establish an Intel-*
5 *ligence Directorate within the FBI. The Intelligence Direc-*
6 *torate shall have the authority to manage and direct the*
7 *intelligence operations of all FBI headquarters and field*
8 *components. The Intelligence Directorate shall have respon-*
9 *sibility for all components and functions of the FBI nec-*
10 *essary for—*

11 *(1) oversight of FBI field intelligence operations;*

12 *(2) FBI human source development and manage-*
13 *ment;*

14 *(3) FBI collection against nationally-determined*
15 *intelligence requirements;*

16 *(4) language services;*

17 *(5) strategic analysis;*

18 *(6) intelligence program and budget manage-*
19 *ment; and*

20 *(7) the intelligence workforce.*

21 *(d) NATIONAL SECURITY WORKFORCE.—The Director*
22 *of the Federal Bureau of Investigation shall establish a spe-*
23 *cialized, integrated intelligence cadre composed of Special*
24 *Agents, analysts, linguists, and surveillance specialists in*
25 *a manner which creates and sustains within the FBI a*

1 workforce with substantial expertise in, and commitment
2 to, the intelligence mission of the FBI. The Director shall—

3 (1) ensure that these FBI employees may make
4 their career, including promotion to the most senior
5 positions in the FBI, within this career track;

6 (2) establish intelligence cadre requirements
7 for—

8 (A) training;

9 (B) career development and certification;

10 (C) recruitment, hiring, and selection;

11 (D) integrating field intelligence teams; and

12 (E) senior level field management;

13 (3) establish intelligence officer certification re-
14 quirements, including requirements for training
15 courses and assignments to other intelligence, na-
16 tional security, or homeland security components of
17 the Executive branch, in order to advance to senior
18 operational management positions in the FBI;

19 (4) ensure that the FBI's recruitment and train-
20 ing program enhances its ability to attract individ-
21 uals with educational and professional backgrounds
22 in intelligence, international relations, language,
23 technology, and other skills relevant to the intelligence
24 mission of the FBI;

1 (5) *ensure that all Special Agents and analysts*
2 *employed by the FBI after the date of the enactment*
3 *of this Act shall receive basic training in both crimi-*
4 *nal justice matters and intelligence matters;*

5 (6) *ensure that all Special Agents employed by*
6 *the FBI after the date of the enactment of this Act,*
7 *to the maximum extent practicable, be given an op-*
8 *portunity to undergo, during their early service with*
9 *the FBI, meaningful assignments in criminal justice*
10 *matters and in intelligence matters;*

11 (7) *ensure that, to the maximum extent prac-*
12 *tical, Special Agents who specialize in intelligence are*
13 *afforded the opportunity to work on intelligence mat-*
14 *ters over the remainder of their career with the FBI;*
15 *and*

16 (8) *ensure that, to the maximum extent prac-*
17 *tical, analysts are afforded FBI training and career*
18 *opportunities commensurate with the training and*
19 *career opportunities afforded analysts in other ele-*
20 *ments of the intelligence community.*

21 (e) *FIELD OFFICE MATTERS.*—*The Director of the*
22 *Federal Bureau of Investigation shall take appropriate ac-*
23 *tions to ensure the integration of analysis, Special Agents,*
24 *linguists, and surveillance personnel in FBI field intel-*
25 *ligence components and to provide effective leadership and*

1 *infrastructure to support FBI field intelligence components.*

2 *The Director shall—*

3 (1) *ensure that each FBI field office has an offi-*
4 *cial at the level of Assistant Special Agent in Charge*
5 *or higher with responsibility for the FBI field intel-*
6 *ligence component; and*

7 (2) *to the extent practicable, provide for such ex-*
8 *pansion of special compartmented information facili-*
9 *ties in FBI field offices as is necessary to ensure the*
10 *discharge by the field intelligence components of the*
11 *national security and criminal intelligence mission of*
12 *the FBI.*

13 (g) *BUDGET MATTERS.—The Director of the Federal*
14 *Bureau of Investigation shall, in consultation with the Di-*
15 *rector of the Office of Management and Budget, modify the*
16 *budget structure of the FBI in order to organize the budget*
17 *according to its four main programs as follows:*

18 (1) *Intelligence.*

19 (2) *Counterterrorism and counterintelligence.*

20 (3) *Criminal enterprise/Federal crimes.*

21 (4) *Criminal justice services.*

22 (h) *REPORTS.—*

23 (1)(A) *Not later than 180 days after the date of*
24 *the enactment of this Act, and every twelve months*
25 *thereafter, the Director of the Federal Bureau of In-*

1 *vestigation shall submit to Congress a report on the*
2 *progress made as of the date of such report in car-*
3 *rying out the requirements of this section.*

4 *(B) The Director shall include in the first report*
5 *required by subparagraph (A) an estimate of the re-*
6 *sources required to complete the expansion of special*
7 *compartmented information facilities to carry out the*
8 *intelligence mission of FBI field intelligence compo-*
9 *nents.*

10 *(2) In each annual report required by paragraph*
11 *(1)(A) the director shall include—*

12 *(A) a report on the progress made by each*
13 *FBI field office during the period covered by*
14 *such review in addressing FBI and national in-*
15 *telligence priorities;*

16 *(B) a report assessing the qualifications,*
17 *status, and roles of analysts at FBI headquarters*
18 *and in FBI field offices; and*

19 *(C) a report on the progress of the FBI in*
20 *implementing information-sharing principles.*

21 *(3) A report required by this subsection shall be*
22 *submitted—*

23 *(A) to each committee of Congress that has*
24 *jurisdiction over the subject matter of such re-*
25 *port; and*

1 (B) in unclassified form, but may include a
2 classified annex.

3 **SEC. 2194. AUTHORIZATION AND CHANGE OF COPS PRO-**
4 **GRAM TO SINGLE GRANT PROGRAM.**

5 (a) *IN GENERAL.*—Section 1701 of title I of the Omni-
6 bus Crime Control and Safe Streets Act of 1968 (42 U.S.C.
7 3796dd) is amended—

8 (1) by amending subsection (a) to read as fol-
9 lows:

10 “(a) *GRANT AUTHORIZATION.*—The Attorney General
11 shall carry out a single grant program under which the At-
12 torney General makes grants to States, units of local gov-
13 ernment, Indian tribal governments, other public and pri-
14 vate entities, and multi-jurisdictional or regional consortia
15 for the purposes described in subsection (b).”;

16 (2) by striking subsections (b) and (c);

17 (3) by redesignating subsection (d) as subsection
18 (b), and in that subsection—

19 (A) by striking “*ADDITIONAL GRANT*
20 *PROJECTS.*—Grants made under subsection (a)
21 may include programs, projects, and other ac-
22 tivities to—” and inserting “*USES OF GRANT*
23 *AMOUNTS.*—The purposes for which grants made
24 under subsection (a) may be made are—”;

1 (B) by redesignating paragraphs (1)
2 through (12) as paragraphs (6) through (17), re-
3 spectively;

4 (C) by inserting before paragraph (5) (as so
5 redesignated) the following new paragraphs:

6 “(1) rehire law enforcement officers who have
7 been laid off as a result of State and local budget re-
8 ductions for deployment in community-oriented polic-
9 ing;

10 “(2) hire and train new, additional career law
11 enforcement officers for deployment in community-
12 oriented policing across the Nation;

13 “(3) procure equipment, technology, or support
14 systems, or pay overtime, to increase the number of
15 officers deployed in community-oriented policing;

16 “(4) improve security at schools and on school
17 grounds in the jurisdiction of the grantee through—

18 “(A) placement and use of metal detectors,
19 locks, lighting, and other deterrent measures;

20 “(B) security assessments;

21 “(C) security training of personnel and stu-
22 dents;

23 “(D) coordination with local law enforce-
24 ment; and

1 “(E) any other measure that, in the deter-
2 mination of the Attorney General, may provide
3 a significant improvement in security;

4 “(5) pay for officers hired to perform intel-
5 ligence, anti-terror, or homeland security duties exclu-
6 sively;” and

7 (D) by amending paragraph (9) (as so re-
8 designated) to read as follows:

9 “(8) develop new technologies, including inter-
10 operable communications technologies, modernized
11 criminal record technology, and forensic technology,
12 to assist State and local law enforcement agencies in
13 reorienting the emphasis of their activities from react-
14 ing to crime to preventing crime and to train law en-
15 forcement officers to use such technologies;”;

16 (4) by redesignating subsections (e) through (k)
17 as subsections (c) through (i), respectively;

18 (5) in subsection (c) (as so redesignated) by
19 striking “subsection (i)” and inserting “subsection
20 (g)”; and

21 (6) by adding at the end the following new sub-
22 section:

23 “(j) *MATCHING FUNDS FOR SCHOOL SECURITY*
24 *GRANTS*.—Notwithstanding subsection (i), in the case of a

1 *grant under subsection (a) for the purposes described in*
2 *subsection (b)(4)—*

3 “(1) *the portion of the costs of a program pro-*
4 *vided by that grant may not exceed 50 percent;*

5 “(2) *any funds appropriated by Congress for the*
6 *activities of any agency of an Indian tribal govern-*
7 *ment or the Bureau of Indian Affairs performing law*
8 *enforcement functions on any Indian lands may be*
9 *used to provide the non-Federal share of a matching*
10 *requirement funded under this subsection; and*

11 “(3) *the Attorney General may provide, in the*
12 *guidelines implementing this section, for the require-*
13 *ment of paragraph (1) to be waived or altered in the*
14 *case of a recipient with a financial need for such a*
15 *waiver or alteration.”.*

16 **(b) CONFORMING AMENDMENT.**—*Section 1702 of title*
17 *I of such Act (42 U.S.C. 3796dd–1) is amended in sub-*
18 *section (d)(2) by striking “section 1701(d)” and inserting*
19 *“section 1701(b)”.*

20 **(c) AUTHORIZATION OF APPROPRIATIONS.**—*Section*
21 *1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11))*
22 *is amended—*

23 (1) *in subparagraph (A) by striking clause (i)*
24 *and all that follows through the period at the end and*
25 *inserting the following:*

- 1 “(i) \$1,007,624,000 for fiscal year 2005;
 2 “(ii) \$1,027,176,000 for fiscal year 2006; and
 3 “(iii) \$1,047,119,000 for fiscal year 2007.”; and
 4 (2) in subparagraph (B)—
 5 (A) by striking “section 1701(f)” and in-
 6 serting “section 1701(d)”; and
 7 (B) by striking the third sentence.

8 ***Subtitle I—Police Badges***

9 **SEC. 2201. SHORT TITLE.**

10 *This subtitle may be cited as the “Badge Security En-*
 11 *hancement Act of 2004” .*

12 **SEC. 2202. POLICE BADGES.**

13 *Section 716 of title 18, United States Code, is amended*
 14 *in subsection (b)—*
 15 (1) *by striking paragraphs (2) and (4); and*
 16 (2) *by redesignating paragraph (3) as para-*
 17 *graph (2).*

18 ***Subtitle J—Railroad Carriers and*** 19 ***Mass Transportation Protection*** 20 ***Act of 2004***

21 **SEC. 2301. SHORT TITLE.**

22 *This subtitle may be cited as the “Railroad Carriers*
 23 *and Mass Transportation Protection Act of 2004”.*

1 **SEC. 2302. ATTACKS AGAINST RAILROAD CARRIERS AND**
2 **MASS TRANSPORTATION SYSTEMS.**

3 (a) *IN GENERAL.*—Chapter 97 of title 18, United
4 States Code, is amended by striking sections 1992 through
5 1993 and inserting the following:

6 **“§ 1992. Terrorist attacks and other violence against**
7 **railroad carriers and against mass trans-**
8 **portation systems on land, on water, or**
9 **through the air**

10 “(a) *GENERAL PROHIBITIONS.*—Whoever, in a cir-
11 cumstance described in subsection (c), knowingly—

12 “(1) wrecks, derails, sets fire to, or disables rail-
13 road on-track equipment or a mass transportation ve-
14 hicle;

15 “(2) with intent to endanger the safety of any
16 person, or with a reckless disregard for the safety of
17 human life, and without the authorization of the rail-
18 road carrier or mass transportation provider—

19 “(A) places any biological agent or toxin,
20 destructive substance, or destructive device in,
21 upon, or near railroad on-track equipment or a
22 mass transportation vehicle; or

23 “(B) releases a hazardous material or a bio-
24 logical agent or toxin on or near any property
25 described in subparagraph (A) or (B) of para-
26 graph (3);

1 “(3) sets fire to, undermines, makes unworkable,
2 unusable, or hazardous to work on or use, or places
3 any biological agent or toxin, destructive substance,
4 or destructive device in, upon, or near any—

5 “(A) tunnel, bridge, viaduct, trestle, track,
6 electromagnetic guideway, signal, station, depot,
7 warehouse, terminal, or any other way, struc-
8 ture, property, or appurtenance used in the oper-
9 ation of, or in support of the operation of, a rail-
10 road carrier, without the authorization of the
11 railroad carrier, and with intent to, or knowing
12 or having reason to know such activity would
13 likely, derail, disable, or wreck railroad on-track
14 equipment;

15 “(B) garage, terminal, structure, track, elec-
16 tromagnetic guideway, supply, or facility used
17 in the operation of, or in support of the oper-
18 ation of, a mass transportation vehicle, without
19 the authorization of the mass transportation pro-
20 vider, and with intent to, or knowing or having
21 reason to know such activity would likely, derail,
22 disable, or wreck a mass transportation vehicle
23 used, operated, or employed by a mass transpor-
24 tation provider; or

1 “(4) removes an appurtenance from, damages, or
2 otherwise impairs the operation of a railroad signal
3 system or mass transportation signal or dispatching
4 system, including a train control system, centralized
5 dispatching system, or highway-railroad grade cross-
6 ing warning signal, without authorization from the
7 railroad carrier or mass transportation provider;

8 “(5) with intent to endanger the safety of any
9 person, or with a reckless disregard for the safety of
10 human life, interferes with, disables, or incapacitates
11 any dispatcher, driver, captain, locomotive engineer,
12 railroad conductor, or other person while the person
13 is employed in dispatching, operating, or maintain-
14 ing railroad on-track equipment or a mass transpor-
15 tation vehicle;

16 “(6) commits an act, including the use of a dan-
17 gerous weapon, with the intent to cause death or seri-
18 ous bodily injury to any person who is on property
19 described in subparagraph (A) or (B) of paragraph
20 (3), except that this subparagraph shall not apply to
21 rail police officers in acting the course of their law
22 enforcement duties under section 28101 of title 49,
23 United States Code;

24 “(7) conveys false information, knowing the in-
25 formation to be false, concerning an attempt or al-

1 *leged attempt that was made, is being made, or is to*
2 *be made, to engage in a violation of this subsection;*
3 *or*

4 *“(8) attempts, threatens, or conspires to engage*
5 *in any violation of any of paragraphs (1) through*
6 *(7);*

7 *shall be fined under this title or imprisoned not more than*
8 *20 years, or both.*

9 *“(b) AGGRAVATED OFFENSE.—Whoever commits an*
10 *offense under subsection (a) of this section in a cir-*
11 *cumstance in which—*

12 *“(1) the railroad on-track equipment or mass*
13 *transportation vehicle was carrying a passenger or*
14 *employee at the time of the offense;*

15 *“(2) the railroad on-track equipment or mass*
16 *transportation vehicle was carrying high-level radio-*
17 *active waste or spent nuclear fuel at the time of the*
18 *offense;*

19 *“(3) the railroad on-track equipment or mass*
20 *transportation vehicle was carrying a hazardous ma-*
21 *terial at the time of the offense that—*

22 *“(A) was required to be placarded under*
23 *subpart F of part 172 of title 49, Code of Federal*
24 *Regulations; and*

1 “(B) is identified as class number 3, 4, 5,
2 6.1, or 8 and packing group I or packing group
3 II, or class number 1, 2, or 7 under the haz-
4 ardous materials table of section 172.101 of title
5 49, Code of Federal Regulations; or

6 “(4) the offense results in the death of any per-
7 son;

8 shall be fined under this title or imprisoned for any term
9 of years or life, or both. In the case of a violation described
10 in paragraph (2) of this subsection, the term of imprison-
11 ment shall be not less than 30 years; and, in the case of
12 a violation described in paragraph (4) of this subsection,
13 the offender shall be fined under this title and imprisoned
14 for life and be subject to the death penalty.

15 “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A
16 circumstance referred to in subsection (a) is any of the fol-
17 lowing:

18 “(1) Any of the conduct required for the offense
19 is, or, in the case of an attempt, threat, or conspiracy
20 to engage in conduct, the conduct required for the
21 completed offense would be, engaged in, on, against,
22 or affecting a mass transportation provider or rail-
23 road carrier engaged in or affecting interstate or for-
24 eign commerce.

1 “(2) *Any person travels or communicates across*
2 *a State line in order to commit the offense, or trans-*
3 *ports materials across a State line in aid of the com-*
4 *mission of the offense.*

5 “(d) *DEFINITIONS.—In this section—*

6 “(1) *the term ‘biological agent’ has the meaning*
7 *given to that term in section 178(1);*

8 “(2) *the term ‘dangerous weapon’ means a weap-*
9 *on, device, instrument, material, or substance, ani-*
10 *mate or inanimate, that is used for, or is readily ca-*
11 *pable of, causing death or serious bodily injury, in-*
12 *cluding a pocket knife with a blade of less than 2½*
13 *inches in length and a box cutter;*

14 “(3) *the term ‘destructive device’ has the mean-*
15 *ing given to that term in section 921(a)(4);*

16 “(4) *the term ‘destructive substance’ means an*
17 *explosive substance, flammable material, infernal ma-*
18 *chine, or other chemical, mechanical, or radioactive*
19 *device or material, or matter of a combustible, con-*
20 *taminative, corrosive, or explosive nature, except that*
21 *the term ‘radioactive device’ does not include any ra-*
22 *dioactive device or material used solely for medical,*
23 *industrial, research, or other peaceful purposes;*

24 “(5) *the term ‘hazardous material’ has the mean-*
25 *ing given to that term in chapter 51 of title 49;*

1 “(6) the term ‘high-level radioactive waste’ has
2 the meaning given to that term in section 2(12) of the
3 Nuclear Waste Policy Act of 1982 (42 U.S.C.
4 10101(12));

5 “(7) the term ‘mass transportation’ has the
6 meaning given to that term in section 5302(a)(7) of
7 title 49, except that the term includes school bus,
8 charter, and sightseeing transportation;

9 “(8) the term ‘on-track equipment’ means a car-
10 riage or other contrivance that runs on rails or elec-
11 tromagnetic guideways;

12 “(9) the term ‘railroad on-track equipment’
13 means a train, locomotive, tender, motor unit, freight
14 or passenger car, or other on-track equipment used,
15 operated, or employed by a railroad carrier;

16 “(10) the term ‘railroad’ has the meaning given
17 to that term in chapter 201 of title 49;

18 “(11) the term ‘railroad carrier’ has the meaning
19 given to that term in chapter 201 of title 49;

20 “(12) the term ‘serious bodily injury’ has the
21 meaning given to that term in section 1365;

22 “(13) the term ‘spent nuclear fuel’ has the mean-
23 ing given to that term in section 2(23) of the Nuclear
24 Waste Policy Act of 1982 (42 U.S.C. 10101(23));

1 “(14) the term ‘State’ has the meaning given to
2 that term in section 2266;

3 “(15) the term ‘toxin’ has the meaning given to
4 that term in section 178(2); and

5 “(16) the term ‘vehicle’ means any carriage or
6 other contrivance used, or capable of being used, as a
7 means of transportation on land, on water, or
8 through the air.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) The table of sections at the beginning of
11 chapter 97 of title 18, United States Code, is
12 amended—

13 (A) by striking “**RAILROADS**” in the
14 chapter heading and inserting “**RAILROAD**
15 **CARRIERS AND MASS TRANSPOR-**
16 **TATION SYSTEMS ON LAND, ON**
17 **WATER, OR THROUGH THE AIR**”;

18 (B) by striking the items relating to sections
19 1992 and 1993; and

20 (C) by inserting after the item relating to
21 section 1991 the following:

 “1992. Terrorist attacks and other violence against railroad carriers and against
 mass transportation systems on land, on water, or through the
 air.”.

22 (2) The table of chapters at the beginning of part
23 I of title 18, United States Code, is amended by strik-

1 *ing the item relating to chapter 97 and inserting the*
 2 *following:*

**“97. Railroad carriers and mass transportation systems
 on land, on water, or through the air 1991”.**

3 (3) *Title 18, United States Code, is amended—*

4 (A) *in section 2332b(g)(5)(B)(i), by striking*
 5 *“1992 (relating to wrecking trains), 1993 (relat-*
 6 *ing to terrorist attacks and other acts of violence*
 7 *against mass transportation systems),” and in-*
 8 *serting “1992 (relating to terrorist attacks and*
 9 *other acts of violence against railroad carriers*
 10 *and against mass transportation systems on*
 11 *land, on water, or through the air),”;*

12 (B) *in section 2339A, by striking “1993,”;*
 13 *and*

14 (C) *in section 2516(1)(c) by striking “1992*
 15 *(relating to wrecking trains),” and inserting*
 16 *“1992 (relating to terrorist attacks and other*
 17 *acts of violence against railroad carriers and*
 18 *against mass transportation systems on land, on*
 19 *water, or through the air),”.*

1 ***Subtitle K—Prevention of Terrorist***
2 ***Access to Destructive Weapons***
3 ***Act of 2004***

4 **SEC. 2401. SHORT TITLE.**

5 *This subtitle may be cited as the “Prevention of Ter-*
6 *rorist Access to Destructive Weapons Act of 2004”.*

7 **SEC. 2402. FINDINGS AND PURPOSE.**

8 *(a) FINDINGS.—Congress finds the following:*

9 *(1) The criminal use of man-portable air defense*
10 *systems (MANPADS) presents a serious threat to civil*
11 *aviation worldwide, especially in the hands of terror-*
12 *ists or foreign states that harbor them.*

13 *(2) Atomic weapons or weapons designed to re-*
14 *lease radiation (“dirty bombs”) could be used by ter-*
15 *rorists to inflict enormous loss of life and damage to*
16 *property and the environment.*

17 *(3) Variola virus is the causative agent of small-*
18 *pox, an extremely serious, contagious, and sometimes*
19 *fatal disease. Variola virus is classified as a Category*
20 *A agent by the Centers for Disease Control and Pre-*
21 *vention, meaning that it is believed to pose the great-*
22 *est potential threat for adverse public health impact*
23 *and has a moderate to high potential for large-scale*
24 *dissemination. The last case of smallpox in the*
25 *United States was in 1949. The last naturally occur-*

1 *ring case in the world was in Somalia in 1977. Al-*
2 *though smallpox has been officially eradicated after a*
3 *successful worldwide vaccination program, there re-*
4 *main two official repositories of the variola virus for*
5 *research purposes. Because it is so dangerous, the*
6 *variola virus may appeal to terrorists.*

7 *(4) The use, or even the threatened use, of*
8 *MANPADS, atomic or radiological weapons, or the*
9 *variola virus, against the United States, its allies, or*
10 *its people, poses a grave risk to the security, foreign*
11 *policy, economy, and environment of the United*
12 *States. Accordingly, the United States has a compel-*
13 *ling national security interest in preventing unlawful*
14 *activities that lead to the proliferation or spread of*
15 *such items, including their unauthorized production,*
16 *construction, acquisition, transfer, possession, import,*
17 *or export. All of these activities markedly increase the*
18 *chances that such items will be obtained by terrorist*
19 *organizations or rogue states, which could use them to*
20 *attack the United States, its allies, or United States*
21 *nationals or corporations.*

22 *(5) There is no legitimate reason for a private*
23 *individual or company, absent explicit government*
24 *authorization, to produce, construct, otherwise ac-*
25 *quire, transfer, receive, possess, import, export, or use*

1 *MANPADS, atomic or radiological weapons, or the*
 2 *variola virus.*

3 *(b) PURPOSE.—The purpose of this subtitle is to com-*
 4 *bat the potential use of weapons that have the ability to*
 5 *cause widespread harm to United States persons and the*
 6 *United States economy (and that have no legitimate private*
 7 *use) and to threaten or harm the national security or for-*
 8 *ign relations of the United States.*

9 **SEC. 2403. MISSILE SYSTEMS DESIGNED TO DESTROY AIR-**
 10 **CRAFT.**

11 *Chapter 113B of title 18, United States Code, is*
 12 *amended by adding after section 2332f the following:*

13 **“§2332g. Missile systems designed to destroy aircraft**

14 *“(a) UNLAWFUL CONDUCT.—*

15 *“(1) IN GENERAL.—Except as provided in para-*
 16 *graph (3), it shall be unlawful for any person to*
 17 *knowingly produce, construct, otherwise acquire,*
 18 *transfer directly or indirectly, receive, possess, import,*
 19 *export, or use, or possess and threaten to use—*

20 *“(A) an explosive or incendiary rocket or*
 21 *missile that is guided by any system designed to*
 22 *enable the rocket or missile to—*

23 *“(i) seek or proceed toward energy ra-*
 24 *diated or reflected from an aircraft or to-*
 25 *ward an image locating an aircraft; or*

1 “(ii) otherwise direct or guide the rock-
2 et or missile to an aircraft;

3 “(B) any device designed or intended to
4 launch or guide a rocket or missile described in
5 subparagraph (A); or

6 “(C) any part or combination of parts de-
7 signed or redesigned for use in assembling or fab-
8 ricating a rocket, missile, or device described in
9 subparagraph (A) or (B).

10 “(2) NONWEAPON.—Paragraph (1)(A) does not
11 apply to any device that is neither designed nor rede-
12 signed for use as a weapon.

13 “(3) EXCLUDED CONDUCT.—This subsection does
14 not apply with respect to—

15 “(A) conduct by or under the authority of
16 the United States or any department or agency
17 thereof or of a State or any department or agen-
18 cy thereof; or

19 “(B) conduct pursuant to the terms of a
20 contract with the United States or any depart-
21 ment or agency thereof or with a State or any
22 department or agency thereof.

23 “(b) JURISDICTION.—Conduct prohibited by subsection
24 (a) is within the jurisdiction of the United States if—

1 “(1) *the offense occurs in or affects interstate or*
2 *foreign commerce;*

3 “(2) *the offense occurs outside of the United*
4 *States and is committed by a national of the United*
5 *States;*

6 “(3) *the offense is committed against a national*
7 *of the United States while the national is outside the*
8 *United States;*

9 “(4) *the offense is committed against any prop-*
10 *erty that is owned, leased, or used by the United*
11 *States or by any department or agency of the United*
12 *States, whether the property is within or outside the*
13 *United States; or*

14 “(5) *an offender aids or abets any person over*
15 *whom jurisdiction exists under this subsection in*
16 *committing an offense under this section or conspires*
17 *with any person over whom jurisdiction exists under*
18 *this subsection to commit an offense under this sec-*
19 *tion.*

20 “(c) *CRIMINAL PENALTIES.—*

21 “(1) *IN GENERAL.—Any person who violates, or*
22 *attempts or conspires to violate, subsection (a) shall*
23 *be fined not more than \$2,000,000 and shall be sen-*
24 *tenced to a term of imprisonment not less than 30*
25 *years or to imprisonment for life.*

1 “(2) *LIFE IMPRISONMENT.*—Any person who, in
 2 the course of a violation of subsection (a), uses, at-
 3 tempts or conspires to use, or possesses and threatens
 4 to use, any item or items described in subsection (a),
 5 shall be fined not more than \$2,000,000 and impris-
 6 oned for life.

7 “(3) *DEATH PENALTY.*—If the death of another
 8 results from a person’s violation of subsection (a), the
 9 person shall be fined not more than \$2,000,000 and
 10 punished by death or imprisoned for life.

11 “(d) *DEFINITION.*—As used in this section, the term
 12 ‘aircraft’ has the definition set forth in section 40102(a)(6)
 13 of title 49, United States Code.”

14 **SEC. 2404. ATOMIC WEAPONS.**

15 (a) *PROHIBITIONS.*—Section 92 of the Atomic Energy
 16 Act of 1954 (42 U.S.C. 2122) is amended by—

17 (1) inserting at the beginning “a.” before “It”;

18 (2) inserting “knowingly” after “for any person
 19 to”;

20 (3) striking “or” before “export”;

21 (4) striking “transfer or receive in interstate or
 22 foreign commerce,” before “manufacture”;

23 (5) inserting “receive,” after “acquire,”;

24 (6) inserting “, or use, or possess and threaten
 25 to use,” before “any atomic weapon”;

1 (7) *inserting at the end the following:*

2 “*b. Conduct prohibited by subsection a. is within the*
3 *jurisdiction of the United States if—*

4 “*(1) the offense occurs in or affects interstate or*
5 *foreign commerce; the offense occurs outside of the*
6 *United States and is committed by a national of the*
7 *United States;*

8 “*(2) the offense is committed against a national*
9 *of the United States while the national is outside the*
10 *United States;*

11 “*(3) the offense is committed against any prop-*
12 *erty that is owned, leased, or used by the United*
13 *States or by any department or agency of the United*
14 *States, whether the property is within or outside the*
15 *United States; or*

16 “*(4) an offender aids or abets any person over*
17 *whom jurisdiction exists under this subsection in*
18 *committing an offense under this section or conspires*
19 *with any person over whom jurisdiction exists under*
20 *this subsection to commit an offense under this sec-*
21 *tion.*”.

22 ***(b) VIOLATIONS.—Section 222 of the Atomic Energy***
23 ***Act of 1954 (42 U.S.C. 2272) is amended by—***

24 (1) *inserting at the beginning “a.” before “Who-*
25 *ever”;*

1 (2) striking “, 92,”; and

2 (3) inserting at the end the following:

3 “b. Any person who violates, or attempts or conspires
4 to violate, section 92 shall be fined not more than
5 \$2,000,000 and sentenced to a term of imprisonment not
6 less than 30 years or to imprisonment for life. Any person
7 who, in the course of a violation of section 92, uses, attempts
8 or conspires to use, or possesses and threatens to use, any
9 atomic weapon shall be fined not more than \$2,000,000 and
10 imprisoned for life. If the death of another results from a
11 person’s violation of section 92, the person shall be fined
12 not more than \$2,000,000 and punished by death or impris-
13 oned for life.”

14 **SEC. 2405. RADIOLOGICAL DISPERSAL DEVICES.**

15 Chapter 113B of title 18, United States Code, is
16 amended by adding after section 2332g the following:

17 **“§ 2332h. Radiological dispersal devices**

18 “(a) UNLAWFUL CONDUCT.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), it shall be unlawful for any person to
21 knowingly produce, construct, otherwise acquire,
22 transfer directly or indirectly, receive, possess, import,
23 export, or use, or possess and threaten to use—

1 “(A) any weapon that is designed or in-
2 tended to release radiation or radioactivity at a
3 level dangerous to human life; or

4 “(B) or any device or other object that is
5 capable of and designed or intended to endanger
6 human life through the release of radiation or
7 radioactivity.

8 “(2) *EXCEPTION.*—*This subsection does not*
9 *apply with respect to—*

10 “(A) conduct by or under the authority of
11 the United States or any department or agency
12 thereof; or

13 “(B) conduct pursuant to the terms of a
14 contract with the United States or any depart-
15 ment or agency thereof.

16 “(b) *JURISDICTION.*—*Conduct prohibited by subsection*
17 *(a) is within the jurisdiction of the United States if—*

18 “(1) the offense occurs in or affects interstate or
19 foreign commerce;

20 “(2) the offense occurs outside of the United
21 States and is committed by a national of the United
22 States;

23 “(3) the offense is committed against a national
24 of the United States while the national is outside the
25 United States;

1 “(4) *the offense is committed against any prop-*
2 *erty that is owned, leased, or used by the United*
3 *States or by any department or agency of the United*
4 *States, whether the property is within or outside the*
5 *United States; or*

6 “(5) *an offender aids or abets any person over*
7 *whom jurisdiction exists under this subsection in*
8 *committing an offense under this section or conspires*
9 *with any person over whom jurisdiction exists under*
10 *this subsection to commit an offense under this sec-*
11 *tion.*

12 “(c) *CRIMINAL PENALTIES.—*

13 “(1) *IN GENERAL.—Any person who violates, or*
14 *attempts or conspires to violate, subsection (a) shall*
15 *be fined not more than \$2,000,000 and shall sentenced*
16 *to a term of imprisonment not less than 30 years or*
17 *to imprisonment for life.*

18 “(2) *LIFE IMPRISONMENT.—Any person who, in*
19 *the course of a violation of subsection (a), uses, at-*
20 *tempts or conspires to use, or possesses and threatens*
21 *to use, any item or items described in subsection (a),*
22 *shall be fined not more than \$2,000,000 and impris-*
23 *oned for life.*

24 “(3) *DEATH PENALTY.—If the death of another*
25 *results from a person’s violation of subsection (a), the*

1 *person shall be fined not more than \$2,000,000 and*
2 *punished by death or imprisoned for life.”.*

3 **SEC. 2406. VARIOLA VIRUS.**

4 *Chapter 10 of title 18, United States Code, is amended*
5 *by inserting after section 175b the following:*

6 **“§ 175c. Variola virus**

7 *“(a) UNLAWFUL CONDUCT.—*

8 *“(1) IN GENERAL.—Except as provided in para-*
9 *graph (2), it shall be unlawful for any person to*
10 *knowingly produce, engineer, synthesize, acquire,*
11 *transfer directly or indirectly, receive, possess, import,*
12 *export, or use, or possess and threaten to use, variola*
13 *virus.*

14 *“(2) EXCEPTION.—This subsection does not*
15 *apply to conduct by, or under the authority of, the*
16 *Secretary of Health and Human Services.*

17 *“(b) JURISDICTION.—Conduct prohibited by subsection*
18 *(a) is within the jurisdiction of the United States if—*

19 *“(1) the offense occurs in or affects interstate or*
20 *foreign commerce;*

21 *“(2) the offense occurs outside of the United*
22 *States and is committed by a national of the United*
23 *States;*

1 “(3) *the offense is committed against a national*
2 *of the United States while the national is outside the*
3 *United States;*

4 “(4) *the offense is committed against any prop-*
5 *erty that is owned, leased, or used by the United*
6 *States or by any department or agency of the United*
7 *States, whether the property is within or outside the*
8 *United States; or*

9 “(5) *an offender aids or abets any person over*
10 *whom jurisdiction exists under this subsection in*
11 *committing an offense under this section or conspires*
12 *with any person over whom jurisdiction exists under*
13 *this subsection to commit an offense under this sec-*
14 *tion.*

15 “(c) *CRIMINAL PENALTIES.—*

16 “(1) *IN GENERAL.—Any person who violates, or*
17 *attempts or conspires to violate, subsection (a) shall*
18 *be fined not more than \$2,000,000 and shall be sen-*
19 *tenced to a term of imprisonment not less than 30*
20 *years or to imprisonment for life.*

21 “(2) *LIFE IMPRISONMENT.—Any person who, in*
22 *the course of a violation of subsection (a), uses, at-*
23 *tempts or conspires to use, or possesses and threatens*
24 *to use, any item or items described in subsection (a),*

1 shall be fined not more than \$2,000,000 and impris-
2 oned for life.

3 “(3) *DEATH PENALTY.*—If the death of another
4 results from a person’s violation of subsection (a), the
5 person shall be fined not more than \$2,000,000 and
6 punished by death or imprisoned for life.

7 “(d) *DEFINITION.*—As used in this section, the term
8 ‘variola virus’ means a virus that can cause human small-
9 pox or any derivative of the variola major virus that con-
10 tains more than 85 percent of the gene sequence of the
11 variola major virus or the variola minor virus.”.

12 **SEC. 2407. INTERCEPTION OF COMMUNICATIONS.**

13 Section 2516(1) of title 18, United States Code, is
14 amended—

15 (1) in paragraph (a), by inserting “2122 and”
16 after “sections”;

17 (2) in paragraph (c), by inserting “section 175c
18 (relating to variola virus),” after “section 175 (relat-
19 ing to biological weapons),”; and

20 (3) in paragraph (q), by inserting “2332g,
21 2332h,” after “2332f”.

22 **SEC. 2408. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF**
23 **TITLE 18, UNITED STATES CODE.**

24 Section 2332b(g)(5)(B) of title 18, United States Code,
25 is amended—

1 (1) *in clause (i)*—

2 (A) *by inserting before “2339 (relating to*
 3 *harboring terrorists)” the following: “2332g (re-*
 4 *lating to missile systems designed to destroy air-*
 5 *craft), 2332h (relating to radiological dispersal*
 6 *devices),”;* and

7 (B) *by inserting “175c (relating to variola*
 8 *virus),” after “175 or 175b (relating to biological*
 9 *weapons),”;* and

10 (2) *in clause (ii)*—

11 (A) *by striking “section” and inserting*
 12 *“sections 92 (relating to prohibitions governing*
 13 *atomic weapons) or”;* and

14 (B) *by inserting “2122 or” before “2284”.*

15 **SEC. 2409. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE**

16 **18, UNITED STATES CODE.**

17 *Section 1956(c)(7)(D), title 18, United States Code, is*
 18 *amended—*

19 (1) *by inserting after “section 152 (relating to*
 20 *concealment of assets; false oaths and claims; brib-*
 21 *ery),” the following: “section 175c (relating to the*
 22 *variola virus),”;*

23 (2) *by inserting after “section 2332(b) (relating*
 24 *to international terrorist acts transcending national*
 25 *boundaries),” the following: “section 2332g (relating*

1 *to missile systems designed to destroy aircraft), section*
2 *2332h (relating to radiological dispersal de-*
3 *vices),”; and*

4 *(3) striking “or” after “any felony violation of*
5 *the Foreign Agents Registration Act of 1938,” and*
6 *after “any felony violation of the Foreign Corrupt*
7 *Practices Act”, striking “;” and inserting “, or sec-*
8 *tion 92 of the Atomic Energy Act of 1954 (42 U.S.C.*
9 *2122) (relating to prohibitions governing atomic*
10 *weapons)”.*

11 **SEC. 2410. EXPORT LICENSING PROCESS.**

12 *Section 38(g)(1)(A) of the Arms Export Control Act*
13 *(22 U.S.C. 2778) is amended—*

14 *(1) by striking “or” before “(xi)”;* and

15 *(2) by inserting after clause (xi) the following:*

16 *“or (xii) section 3, 4, 5, and 6 of the Prevention of*
17 *Terrorist Access to Destructive Weapons Act of 2004,*
18 *relating to missile systems designed to destroy air-*
19 *craft (18 U.S.C. 2332g), prohibitions governing atom-*
20 *ic weapons (42 U.S.C. 2122), radiological dispersal*
21 *devices (18 U.S.C. 2332h), and variola virus (18*
22 *U.S.C. 175b);”.*

1 **SEC. 2411. CLERICAL AMENDMENTS.**

2 (a) *CHAPTER 113B.*—*The table of sections for chapter*
 3 *113B of title 18, United States Code, is amended by insert-*
 4 *ing the following after the item for section 2332f:*

“2332g. *Missile systems designed to destroy aircraft.*
 “2332h. *Radiological dispersal devices.*”.

5 (b) *CHAPTER 10.*—*The table of sections for chapter 10*
 6 *of title 18, United States Code, is amended by inserting*
 7 *the following item after the item for section 175b:*

“175c. *Variola virus.*”.

8 ***Subtitle L—Terrorist Penalties***
 9 ***Enhancement Act of 2004***

10 **SEC. 2501. SHORT TITLE.**

11 *This subtitle may be cited as the “Terrorist Penalties*
 12 *Enhancement Act of 2004”.*

13 **SEC. 2502. PENALTIES FOR TERRORIST OFFENSES RESULT-**
 14 ***ING IN DEATH; DENIAL OF FEDERAL BENE-***
 15 ***FITS TO TERRORISTS.***

16 (a) *IN GENERAL.*—*Chapter 113B of title 18, United*
 17 *States Code, is amended by adding at the end the following:*

18 **“§ 2339E. *Terrorist offenses resulting in death***

19 “(a) *Whoever, in the course of committing a terrorist*
 20 *offense, engages in conduct that results in the death of a*
 21 *person, shall be punished by death or imprisoned for any*
 22 *term of years or for life.*

1 “(b) *As used in this section, the term ‘terrorist offense’*
2 *means—*

3 “(1) *a Federal felony offense that is—*

4 “(A) *a Federal crime of terrorism as de-*
5 *defined in section 2332b(g) except to the extent*
6 *such crime is an offense under section 1363; or*

7 “(B) *an offense under this chapter, section*
8 *175, 175b, 229, or 831, or section 236 of the*
9 *Atomic Energy Act of 1954; or*

10 “(2) *a Federal offense that is an attempt or con-*
11 *spiracy to commit an offense described in paragraph*
12 *(1).*

13 **“§ 2339F. Denial of Federal benefits to terrorists**

14 “(a) *An individual or corporation who is convicted of*
15 *a terrorist offense (as defined in section 2339E) shall, as*
16 *provided by the court on motion of the Government, be in-*
17 *eligible for any or all Federal benefits for any term of years*
18 *or for life.*

19 “(b) *As used in this section, the term ‘Federal benefit’*
20 *has the meaning given that term in section 421(d) of the*
21 *Controlled Substances Act, and also includes any assistance*
22 *or benefit described in section 115(a) of the Personal Re-*
23 *sponsibility and Work Opportunity Reconciliation Act of*
24 *1996, with the same limitations and to the same extent as*

1 *and Law Enforcement Act of 1994 (Public Law 103–322),*
2 *but after the enactment of the Antihijacking Act of 1974*
3 *(Public Law 93–366), it is determined by the finder of fact,*
4 *before consideration of the factors set forth in sections*
5 *3591(a)(2) and 3592(a) and (c) of title 18, United States*
6 *Code, that one or more of the factors set forth in former*
7 *section 46503(c)(2) of title 49, United States Code, or its*
8 *predecessor, has been proven by the Government to exist,*
9 *beyond a reasonable doubt, and that none of the factors set*
10 *forth in former section 46503(c)(1) of title 49, United States*
11 *Code, or its predecessor, has been proven by the defendant*
12 *to exist, by a preponderance of the information. The mean-*
13 *ing of the term ‘especially heinous, cruel, or depraved’, as*
14 *used in the factor set forth in former section*
15 *46503(c)(2)(B)(iv) of title 49, United States Code, or its*
16 *predecessor, shall be narrowed by adding the limiting lan-*
17 *guage ‘in that it involved torture or serious physical abuse*
18 *to the victim’, and shall be construed as when that term*
19 *is used in section 3592(c)(6) of title 18, United States*
20 *Code.”.*

1 ***Subtitle M—Pretrial Detention and***
 2 ***Postrelease Supervision of Ter-***
 3 ***rorists***

4 **SEC. 2601. SHORT TITLE.**

5 *This subtitle may be cited as the “Pretrial Detention*
 6 *and Lifetime Supervision of Terrorists Act of 2004”.*

7 **SEC. 2602. PRESUMPTION FOR PRETRIAL DETENTION IN**
 8 ***CASES INVOLVING TERRORISM.***

9 *Section 3142 of title 18, United States Code, is*
 10 *amended—*

11 *(1) in subsection (e)—*

12 *(A) by inserting “or” before “the Mari-*
 13 *time”; and*

14 *(B) by inserting after “or 2332b of title 18*
 15 *of the United States Code” the following: “, or*
 16 *an offense listed in section 2332b(g)(5)(B) of title*
 17 *18 of the United States Code, if the Attorney*
 18 *General certifies that the offense appears by its*
 19 *nature or context to be intended to intimidate or*
 20 *coerce a civilian population, to influence the pol-*
 21 *icy of a government by intimidation or coercion,*
 22 *or to affect the conduct of a government by mass*
 23 *destruction, assassination, or kidnaping, or an*
 24 *offense involved in or related to domestic or*

1 *international terrorism as defined in section*
2 *2331 of title 18 of the United States Code”; and*
3 *(2) in subsections (f)(1)(A) and (g)(1), by insert-*
4 *ing after “violence” the following: “, or an offense list-*
5 *ed in section 2332b(g)(5)(B) of title 18 of the United*
6 *States Code, if the Attorney General certifies that the*
7 *offense appears by its nature or context to be intended*
8 *to intimidate or coerce a civilian population, to influ-*
9 *ence the policy of a government by intimidation or*
10 *coercion, or to affect the conduct of a government by*
11 *mass destruction, assassination, or kidnaping, or an*
12 *offense involved in or related to domestic or inter-*
13 *national terrorism as defined in section 2331 of title*
14 *18 of the United States Code”.*

15 **SEC. 2603. POSTRELEASE SUPERVISION OF TERRORISTS.**

16 *Section 3583(j) of title 18, United States Code, is*
17 *amended in subsection (j), by striking “, the commission”*
18 *and all that follows through “person,”.*

1 **TITLE III—BORDER SECURITY**
2 **AND TERRORIST TRAVEL**
3 **Subtitle A—Immigration Reform in**
4 **the National Interest**
5 **CHAPTER 1—GENERAL PROVISIONS**

6 **SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE” EX-**
7 **CEPTION FOR CITIZENS.**

8 (a) *IN GENERAL.*—

9 (1) *IN GENERAL.*—Section 215(b) of the *Immigra-*
10 *tion and Nationality Act* (8 U.S.C. 1185(b)) is
11 amended to read as follows:

12 “(b)(1) *Except as otherwise provided in this sub-*
13 *section, it shall be unlawful for any citizen of the United*
14 *States to depart from or enter, or attempt to depart from*
15 *or enter, the United States unless the citizen bears a valid*
16 *United States passport.*

17 “(2) *Subject to such limitations and exceptions as the*
18 *President may authorize and prescribe, the President may*
19 *waive the application of paragraph (1) in the case of a cit-*
20 *izen departing the United States to, or entering the United*
21 *States from, foreign contiguous territory.*

22 “(3) *The President, if waiving the application of para-*
23 *graph (1) pursuant to paragraph (2), shall require citizens*
24 *departing the United States to, or entering the United*
25 *States from, foreign contiguous territory to bear a document*

1 *(or combination of documents) designated by the Secretary*
2 *of Homeland Security under paragraph (4).*

3 *“(4) The Secretary of Homeland Security—*

4 *“(A) shall designate documents that are suffi-*
5 *cient to denote identity and citizenship in the United*
6 *States such that they may be used, either individually*
7 *or in conjunction with another document, to establish*
8 *that the bearer is a citizen or national of the United*
9 *States for purposes of lawfully departing from or en-*
10 *tering the United States; and*

11 *“(B) shall publish a list of those documents in*
12 *the Federal Register.*

13 *“(5) A document or documents may not be designated*
14 *under paragraph (4) unless the Secretary of Homeland Se-*
15 *curity determines that the document or documents ade-*
16 *quately identifies or identify the bearer as a citizen of the*
17 *United States. If a single document is designated, it must*
18 *be a document that may not be issued to an alien. In no*
19 *event may a combination of documents be accepted for this*
20 *purpose unless the Secretary of Homeland Security deter-*
21 *mines that at least one of those documents could not be*
22 *issued to an alien.”.*

23 *(2) EFFECTIVE DATE.—The amendment made by*
24 *paragraph (1) shall take effect on October 1, 2006.*

25 *(b) INTERIM RULE.—*

1 (1) *IN GENERAL.*—Not later than 6 months after
2 the date of the enactment of this Act, the Secretary of
3 *Homeland Security*—

4 (A) shall designate documents that are suffi-
5 cient to denote identity and citizenship in the
6 United States such that they may be used, either
7 individually or in conjunction with another doc-
8 ument, to establish that the bearer is a citizen or
9 national of the United States for purposes of
10 lawfully departing from or entering the United
11 States; and

12 (B) shall publish a list of those documents
13 in the *Federal Register*.

14 (2) *LIMITATION ON PRESIDENTIAL AUTHORITY.*—
15 Beginning on the date that is 90 days after the publi-
16 cation described in paragraph (1)(B), the President,
17 notwithstanding section 215(b) of the *Immigration*
18 and *Nationality Act* (8 U.S.C. 1185(b)), may not ex-
19 ercise the President’s authority under such section so
20 as to permit any citizen of the United States to de-
21 part from or enter, or attempt to depart from or
22 enter, the United States from any country other than
23 foreign contiguous territory, unless the citizen bears a
24 document (or combination of documents) designated
25 under paragraph (1)(A).

1 (3) *CRITERIA FOR DESIGNATION.*—A document
2 or documents may not be designated under paragraph
3 (1)(A) unless the Secretary of Homeland Security de-
4 termines that the document or documents adequately
5 identifies or identify the bearer as a citizen of the
6 United States. If a single document is designated, it
7 must be a document that may not be issued to an
8 alien (as defined in section 101(a)(3) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1101(a)(3))). In
10 no event may a combination of documents be accepted
11 for this purpose unless the Secretary of Homeland Se-
12 curity determines that at least one of those documents
13 could not be issued to an alien (as so defined).

14 (4) *EFFECTIVE DATE.*—This subsection shall take
15 effect on the date of the enactment of this Act and
16 shall cease to be effective on September 30, 2006.

17 **SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RE-**
18 **SPECT TO DOCUMENTATION REQUIREMENTS**
19 **FOR NATIONALS OF FOREIGN CONTIGUOUS**
20 **TERRITORIES AND ADJACENT ISLANDS.**

21 (a) *IN GENERAL.*—Section 212(d)(4) of the Immigra-
22 tion and Nationality Act (8 U.S.C.1182(d)(4)) is
23 amended—

24 (1) by striking “Attorney General” and inserting
25 “Secretary of Homeland Security”;

1 **SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUS-**
2 **TOMS ENFORCEMENT INVESTIGATORS.**

3 *The Secretary of Homeland Security, in each of fiscal*
4 *years 2006 through 2010, shall increase by not less than*
5 *800 the number of positions for full-time active-duty inves-*
6 *tigators within the Department of Homeland Security in-*
7 *vestigating violations of immigration laws (as defined in*
8 *section 101(a)(17) of the Immigration and Nationality Act*
9 *(8 U.S.C. 1101(a)(17)) above the number of such positions*
10 *for which funds were allotted for the preceding fiscal year.*
11 *At least half of these additional investigators shall be des-*
12 *ignated to investigate potential violations of section 274A*
13 *of the Immigration and Nationality Act (8 U.S.C 1324a).*
14 *Each State shall be allotted at least 3 of these additional*
15 *investigators.*

16 **SEC. 3005. INCREASE IN DETENTION BED SPACE.**

17 *Subject to the availability of appropriated funds, the*
18 *Secretary of Homeland Security shall increase by not less*
19 *than 2,500, in each of fiscal years 2006 and 2007, the num-*
20 *ber of beds available for immigration detention and removal*
21 *operations of the Department of Homeland Security above*
22 *the number for which funds were allotted for the preceding*
23 *fiscal year.*

1 **SEC. 3006. ALIEN IDENTIFICATION STANDARDS.**

2 *Section 211 of the Immigration and Nationality Act*
3 *(8 U.S.C. 1181) is amended by adding at the end the fol-*
4 *lowing:*

5 *“(d) For purposes of establishing identity to any Fed-*
6 *eral employee, an alien present in the United States may*
7 *present any document issued by the Attorney General or*
8 *the Secretary of Homeland Security under the authority of*
9 *one of the immigration laws (as defined in section*
10 *101(a)(17)), a domestically issued document that the Sec-*
11 *retary of Homeland Security designates as reliable for this*
12 *purpose and that cannot be issued to an alien unlawfully*
13 *present in the United States, or an unexpired, lawfully*
14 *issued foreign passport as determined by the Secretary of*
15 *State. Subject to the limitations and exceptions in the im-*
16 *migration laws (as so defined), no other document may be*
17 *presented for such purposes.”.*

18 **SEC. 3007. EXPEDITED REMOVAL.**

19 *Section 235(b)(1)(A) of the Immigration and Nation-*
20 *ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking*
21 *clauses (i) through (iii) and inserting the following:*

22 *“(i) IN GENERAL.—If an immigration*
23 *officer determines that an alien (other than*
24 *an alien described in subparagraph (F))*
25 *who is arriving in the United States, or*
26 *who has not been admitted or paroled into*

1 *the United States and has not been phys-*
2 *ically present in the United States continu-*
3 *ously for the 5-year period immediately*
4 *prior to the date of the determination of in-*
5 *admissibility under this paragraph, is in-*
6 *admissible under section 212(a)(6)(C) or*
7 *212(a)(7), the officer shall order the alien*
8 *removed from the United States without*
9 *further hearing or review, unless the alien*
10 *indicates an intention to apply for asylum*
11 *under section 208 or a fear of persecution.*

12 “(ii) *CLAIMS FOR ASYLUM.—If an im-*
13 *migration officer determines that an alien*
14 *(other than an alien described in subpara-*
15 *graph (F)) who is arriving in the United*
16 *States, or who has not been admitted or pa-*
17 *roled into the United States and has not*
18 *been physically present in the United States*
19 *continuously for the 5-year period imme-*
20 *diately prior to the date of the determina-*
21 *tion of inadmissibility under this para-*
22 *graph, is inadmissible under section*
23 *212(a)(6)(C) or 212(a)(7), and the alien in-*
24 *dicates either an intention to apply for asy-*
25 *lum under section 208 or a fear of persecu-*

1 *tion, the officer shall refer the alien for an*
 2 *interview by an asylum officer under sub-*
 3 *paragraph (B).”.*

4 **SEC. 3008. PREVENTING TERRORISTS FROM OBTAINING**
 5 **ASYLUM.**

6 *(a) CONDITIONS FOR GRANTING ASYLUM.—Section*
 7 *208(b) of the Immigration and Nationality Act (8 U.S.C.*
 8 *1158(b)) is amended—*

9 *(1) in paragraph (1), by striking “The Attorney*
 10 *General” and inserting the following:*

11 *“(A) ELIGIBILITY.—The Secretary of Home-*
 12 *land Security or the Attorney General”; and*

13 *(2) by adding at the end the following:*

14 *“(B) BURDEN OF PROOF.—*

15 *“(i) IN GENERAL.—The burden of proof*
 16 *is on the applicant to establish that the ap-*
 17 *plicant is a refugee, within the meaning of*
 18 *section 101(a)(42)(A).*

19 *“(ii) SPECIAL RULE.—The applicant*
 20 *must establish that race, religion, nation-*
 21 *ality, membership in a particular social*
 22 *group, or political opinion was or will be*
 23 *the central reason for persecuting the appli-*
 24 *cant if the applicant claims that the appli-*

1 *cant has been or would be subjected to perse-*
2 *cution because the applicant—*

3 *“(I) has been accused of being or*
4 *is believed to be a member of, or has*
5 *been accused of supporting, a guerrilla,*
6 *militant, or terrorist organization; or*

7 *“(II) has been accused of engaging*
8 *in or supporting guerrilla, militant, or*
9 *terrorist activities, or is believed to*
10 *have engaged in or supported such ac-*
11 *tivities.*

12 *“(iii) SUSTAINING BURDEN.—The tes-*
13 *timony of the applicant may be sufficient to*
14 *sustain the applicant’s burden without cor-*
15 *roboration, but only if it is credible, is per-*
16 *suasive, and refers to specific facts that*
17 *demonstrate that the applicant is a refugee.*
18 *Where the trier of fact finds that it is rea-*
19 *sonable to expect corroborating evidence for*
20 *certain alleged facts pertaining to the spe-*
21 *cifics of the applicant’s claim, such evidence*
22 *must be provided unless a reasonable expla-*
23 *nation is given as to why such information*
24 *is not provided. It is reasonable to expect*
25 *the applicant to provide corroborating evi-*

1 *dence if the applicant has, or has access to,*
2 *the evidence or could reasonably obtain the*
3 *evidence without departing from the United*
4 *States.*

5 “(iv) *CREDIBILITY DETERMINATION.*—
6 *The credibility determination of the trier of*
7 *fact may be based, in addition to other fac-*
8 *tors, on the demeanor, candor, or respon-*
9 *siveness of the applicant or witness, the con-*
10 *sistency between the applicant’s or witness’s*
11 *written and oral statements, whether or not*
12 *under oath, made at any time to any offi-*
13 *cer, agent, or employee of the United States,*
14 *the internal consistency of each such state-*
15 *ment, the consistency of such statements*
16 *with the country conditions in the country*
17 *from which the applicant claims asylum (as*
18 *presented by the Department of State) and*
19 *any inaccuracies or falsehoods in such state-*
20 *ments. These factors may be considered in-*
21 *dividually or cumulatively.”.*

22 (b) *STANDARD OF REVIEW FOR ORDERS OF RE-*
23 *MOVAL.*—*Section 242(b)(4) of the Immigration and Nation-*
24 *ality Act (8 U.S.C. 1252(b)(4)) is amended by adding after*
25 *subparagraph (D) the following flush language: “No court*

1 *shall reverse a determination made by an adjudicator with*
2 *respect to the availability of corroborating evidence as de-*
3 *scribed in section 208(b)(1)(B), unless the court finds that*
4 *a reasonable adjudicator is compelled to conclude that such*
5 *corroborating evidence is unavailable.”.*

6 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
7 *section (b) shall take effect upon the date of the enactment*
8 *of this Act and shall apply to cases in which the final ad-*
9 *ministrative removal order was issued before, on, or after*
10 *the date of the enactment of this Act.*

11 **SEC. 3009. REVOCATION OF VISAS AND OTHER TRAVEL DOC-**
12 **UMENTATION.**

13 (a) *LIMITATION ON REVIEW.*—*Section 221(i) of the*
14 *Immigration and Nationality Act (8 U.S.C. 1201(i)) is*
15 *amended by adding at the end the following: “There shall*
16 *be no means of judicial review (including review pursuant*
17 *to section 2241 of title 28, United States Code, or any other*
18 *habeas corpus provision, and sections 1361 and 1651 of*
19 *such title) of a revocation under this subsection, and no*
20 *court shall have jurisdiction to consider any claim chal-*
21 *lenging the validity of such a revocation.”.*

22 (b) *CLASSES OF DEPORTABLE ALIENS.*—*Section*
23 *237(a)(1)(B) of the Immigration and Nationality Act (8*
24 *U.S.C. 1227(a)(1)(B)) is amended by striking “United*
25 *States is” and inserting the following: “United States, or*

1 *whose nonimmigrant visa (or other documentation author-*
2 *izing admission into the United States as a nonimmigrant)*
3 *has been revoked under section 221(i), is”.*

4 (c) *REVOCATION OF PETITIONS.*—Section 205 of the
5 *Immigration and Nationality Act (8 U.S.C. 1155) is*
6 *amended—*

7 (1) *by striking “Attorney General” and inserting*
8 *“Secretary of Homeland Security”; and*

9 (2) *by striking the final two sentences.*

10 (d) *EFFECTIVE DATE.*—The amendments made by this
11 *section shall take effect on the date of the enactment of this*
12 *Act and shall apply to revocations under sections 205 and*
13 *221(i) of the Immigration and Nationality Act made before,*
14 *on, or after such date.*

15 **SEC. 3010. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

16 (a) *IN GENERAL.*—Section 242 of the *Immigration*
17 *and Nationality Act (8 U.S.C. 1252) is amended—*

18 (1) *in subsection (a)—*

19 (A) *in paragraph (2)—*

20 (i) *in subparagraphs (A), (B), and*
21 *(C), by inserting “(statutory and nonstatu-*
22 *tory), including section 2241 of title 28,*
23 *United States Code, or any other habeas*
24 *corpus provision, and sections 1361 and*

1 1651 of such title” after “Notwithstanding
2 any other provision of law”; and

3 (ii) by adding at the end the following:

4 “(D) *JUDICIAL REVIEW OF CERTAIN LEGAL*
5 *CLAIMS.—Nothing in this paragraph shall be*
6 *construed as precluding consideration by the cir-*
7 *cuit courts of appeals of constitutional claims or*
8 *pure questions of law raised upon petitions for*
9 *review filed in accordance with this section. Not-*
10 *withstanding any other provision of law (statu-*
11 *tory and nonstatutory), including section 2241*
12 *of title 28, United States Code, or, except as pro-*
13 *vided in subsection (e), any other habeas corpus*
14 *provision, and sections 1361 and 1651 of such*
15 *title, such petitions for review shall be the sole*
16 *and exclusive means of raising any and all*
17 *claims with respect to orders of removal entered*
18 *or issued under any provision of this Act.”; and*

19 (B) by adding at the end the following:

20 “(4) *CLAIMS UNDER THE UNITED NATIONS CON-*
21 *VENTION.—Notwithstanding any other provision of*
22 *law (statutory and nonstatutory), including section*
23 *2241 of title 28, United States Code, or any other ha-*
24 *b eas corpus provision, and sections 1361 and 1651 of*
25 *such title, a petition for review by the circuit courts*

1 of appeals filed in accordance with this section is the
2 sole and exclusive means of judicial review of claims
3 arising under the United Nations Convention Against
4 Torture and Other Forms of Cruel, Inhuman, or De-
5 grading Treatment or Punishment.

6 “(5) *EXCLUSIVE MEANS OF REVIEW.*—The judi-
7 cial review specified in this subsection shall be the
8 sole and exclusive means for review by any court of
9 an order of removal entered or issued under any pro-
10 vision of this Act. For purposes of this title, in every
11 provision that limits or eliminates judicial review or
12 jurisdiction to review, the terms ‘judicial review’ and
13 ‘jurisdiction to review’ include habeas corpus review
14 pursuant to section 2241 of title 28, United States
15 Code, or any other habeas corpus provision, sections
16 1361 and 1651 of such title, and review pursuant to
17 any other provision of law.”;

18 (2) in subsection (b)—

19 (A) in paragraph (3)(B), by inserting “pur-
20 suant to subsection (f)” after “unless”; and

21 (B) in paragraph (9), by adding at the end
22 the following: “Except as otherwise provided in
23 this subsection, no court shall have jurisdiction,
24 by habeas corpus under section 2241 of title 28,
25 United States Code, or any other habeas corpus

1 provision, by section 1361 or 1651 of such title,
2 or by any other provision of law (statutory or
3 nonstatutory), to hear any cause or claim subject
4 to these consolidation provisions.”;

5 (3) in subsection (f)(2), by inserting “or stay, by
6 temporary or permanent order, including stays pend-
7 ing judicial review,” after “no court shall enjoin”;
8 and

9 (4) in subsection (g), by inserting “(statutory
10 and nonstatutory), including section 2241 of title 28,
11 United States Code, or any other habeas corpus provi-
12 sion, and sections 1361 and 1651 of such title” after
13 “notwithstanding any other provision of law”.

14 (b) *EFFECTIVE DATE.*—The amendments made by sub-
15 section (a) shall take effect upon the date of the enactment
16 of this Act and shall apply to cases in which the final ad-
17 ministrative removal order was issued before, on, or after
18 the date of the enactment of this Act.

19 (c) *TRANSFER OF CASES.*—If an alien’s case, brought
20 under section 2241 of title 28, United States Code, and chal-
21 lenging a final administrative removal order, is pending
22 in a district court on the date of the enactment of this Act,
23 then the district court shall transfer the case (or part of
24 the case that challenges the removal order) to the court of
25 appeals for the circuit in which a petition for review could

1 *have been properly filed under section 242 of the Immigra-*
2 *tion and Nationality Act (8 U.S.C. 1252), as amended by*
3 *this Act. The court of appeals shall treat the transferred*
4 *case as if it had been brought pursuant to a petition for*
5 *review under such section 242.*

6 **CHAPTER 2—REMOVAL OF TERRORISTS**
7 **AND SUPPORTERS OF TERRORISM**

8 **SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**
9 **ON REMOVAL.**

10 *(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.*
11 *1231(b)(3)(B)) is amended—*

12 *(1) in clause (iii), by striking “or”;*

13 *(2) in clause (iv), by striking the period at the*
14 *end and inserting “; or”;*

15 *(3) by inserting after clause (iv) the following:*

16 *“(v) the alien is described in subclause*
17 *(I), (II), (III), (IV), or (VI) of section*
18 *212(a)(3)(B)(i) or section 237(a)(4)(B), un-*
19 *less, in the case only of an alien described*
20 *in section 212(a)(3)(B)(i)(IV), the Secretary*
21 *of Homeland Security determines, in the*
22 *Secretary’s discretion, that there are not*
23 *reasonable grounds for regarding the alien*
24 *as a danger to the security of the United*
25 *States.”; and*

1 (4) *by striking the last sentence.*

2 (b) *EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Im-*
3 *migration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v))*
4 *is amended—*

5 (1) *by striking “inadmissible under” each place*
6 *such term appears and inserting “described in”; and*

7 (2) *by striking “removable under”.*

8 (c) *EFFECTIVE DATE.—The amendments made by this*
9 *section shall take effect on the date of the enactment of this*
10 *Act and shall apply to—*

11 (1) *removal proceedings instituted before, on, or*
12 *after the date of the enactment of this Act; and*

13 (2) *acts and conditions constituting a ground for*
14 *inadmissibility or removal occurring or existing be-*
15 *fore, on, or after such date.*

16 **SEC. 3032. DETENTION OF ALIENS BARRED FROM RESTRIC-**
17 **TION ON REMOVAL PENDING REMOVAL.**

18 (a) *IN GENERAL.—Section 241 of Immigration and*
19 *Nationality Act (8 U.S.C. 1231) is amended by adding at*
20 *the end the following:*

21 “(j) **DETENTION OF ALIENS BARRED FROM RESTRIC-**
22 **TION ON REMOVAL PENDING REMOVAL.—**

23 “(1) *IN GENERAL.—In order to protect the*
24 *United States from those aliens who would threaten*
25 *the national security or endanger the lives and safety*

1 of the American people, the Secretary of Homeland
2 Security may, in the Secretary's unreviewable discre-
3 tion, determine that any alien who has been ordered
4 removed from the United States and who is described
5 in subsection (b)(3)(B) is a specially dangerous alien
6 and should be detained until removed. This deter-
7 mination shall be reviewed every six months until the
8 alien is removed. In making this determination, the
9 Secretary shall consider the length of sentence and se-
10 verity of the offense, the loss and injury to the victim,
11 and the future risk the alien poses to the community.

12 “(2) *ALIENS GRANTED PROTECTION RESTRICTING*
13 *REMOVAL.—Any alien described in paragraph (1)*
14 *who has been ordered removed, and who has been*
15 *granted any other protection under the immigration*
16 *law, as defined in section 101(a)(17), restricting the*
17 *alien's removal, shall be detained. The Secretary of*
18 *State shall seek diplomatic assurances that such alien*
19 *shall be protected if removed from the United States.”.*

20 (b) *SEVERABILITY.—If any amendment, or part of any*
21 *amendment, made by subsection (a), or the application of*
22 *any amendment or part of any amendment to any person*
23 *or circumstance, is held to be unconstitutional—*

24 (1) *the Secretary of Homeland Security shall*
25 *continue to seek the removal of any alien described in*

1 *section 241(j)(1) of the Immigration and Nationality*
2 *Act, as amended by this Act, consistent with any pro-*
3 *tection described in section 241(j)(2) of such Act; and*

4 *(2) the Secretary of State shall continue to seek*
5 *diplomatic assurances that any alien described in sec-*
6 *tion 241(j)(2) of the Immigration and Nationality*
7 *Act, as amended by this Act, would be protected upon*
8 *removal.*

9 **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

10 *(a) IN GENERAL.—Section 241(b) of the Immigration*
11 *and Nationality Act (8 U.S.C. 1231(b)) is amended—*

12 *(1) in paragraph (1)—*

13 *(A) in each of subparagraphs (A) and (B),*
14 *by striking the period at the end and inserting*
15 *“unless, in the opinion of the Secretary of Home-*
16 *land Security, removing the alien to such coun-*
17 *try would be prejudicial to the United States.”;*
18 *and*

19 *(B) by amending subparagraph (C) to read*
20 *as follows:*

21 *“(C) ALTERNATIVE COUNTRIES.—If the*
22 *alien is not removed to a country designated in*
23 *subparagraph (A) or (B), the Secretary of Home-*
24 *land Security shall remove the alien to—*

1 “(i) the country of which the alien is
2 a citizen, subject, or national, where the
3 alien was born, or where the alien has a
4 residence, unless the country physically pre-
5 vents the alien from entering the country
6 upon the alien’s removal there; or

7 “(ii) any country whose government
8 will accept the alien into that country.”;
9 and

10 (2) in paragraph (2)—

11 (A) by striking “Attorney General” each
12 place such term appears and inserting “Sec-
13 retary of Homeland Security”;

14 (B) by amending subparagraph (D) to read
15 as follows:

16 “(D) *ALTERNATIVE COUNTRIES.*—If the
17 alien is not removed to a country designated
18 under subparagraph (A)(i), the Secretary of
19 Homeland Security shall remove the alien to a
20 country of which the alien is a subject, national,
21 or citizen, or where the alien has a residence,
22 unless—

23 “(i) such country physically prevents
24 the alien from entering the country upon
25 the alien’s removal there; or

1 “(ii) in the opinion of the Secretary of
2 Homeland Security, removing the alien to
3 the country would be prejudicial to the
4 United States.”; and

5 (C) by amending subparagraph (E)(vii) to
6 read as follows:

7 “(vii) Any country whose government
8 will accept the alien into that country.”.

9 (b) *EFFECTIVE DATE.*—The amendments made by sub-
10 section (a) shall take effect on the date of the enactment
11 of this Act and shall apply to any deportation, exclusion,
12 or removal on or after such date pursuant to any deporta-
13 tion, exclusion, or removal order, regardless of whether such
14 order is administratively final before, on, or after such date.

15 **SEC. 3034. INADMISSIBILITY DUE TO TERRORIST AND TER-**
16 **RORIST-RELATED ACTIVITIES.**

17 (a) *IN GENERAL.*—Section 212(a)(3)(B)(i) of the Im-
18 migration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i))
19 is amended to read as follows:

20 “(i) *IN GENERAL.*—Any alien who—

21 “(I) has engaged in a terrorist ac-
22 tivity;

23 “(II) a consular officer, the Attor-
24 ney General, or the Secretary of Home-
25 land Security knows, or has reasonable

1 ground to believe, is engaged in or is
2 likely to engage after entry in any ter-
3 rorist activity (as defined in clause
4 (iv));

5 “(III) has, under circumstances
6 indicating an intention to cause death
7 or serious bodily harm, incited ter-
8 rorist activity;

9 “(IV) is a representative (as de-
10 fined in clause (v)) of—

11 “(aa) a terrorist organiza-
12 tion; or

13 “(bb) a political, social, or
14 other group that endorses or es-
15 pouses terrorist activity;

16 “(V) is a member of a terrorist or-
17 ganization described in subclause (I)
18 or (II) of clause (vi);

19 “(VI) is a member of a terrorist
20 organization described in clause
21 (vi)(III), unless the alien can dem-
22 onstrate by clear and convincing evi-
23 dence that the alien did not know, and
24 should not reasonably have known,

1 that the organization was a terrorist
2 organization;

3 “(VII) endorses or espouses ter-
4 rorist activity or persuades others to
5 endorse or espouse terrorist activity or
6 support a terrorist organization;

7 “(VIII) has received military-type
8 training (as defined in section
9 2339D(c)(1) of title 18, United States
10 Code) from or on behalf of any organi-
11 zation that, at the time the training
12 was received, was a terrorist organiza-
13 tion under section 212(a)(3)(B)(vi); or

14 “(IX) is the spouse or child of an
15 alien who is inadmissible under this
16 subparagraph, if the activity causing
17 the alien to be found inadmissible oc-
18 curred within the last 5 years,

19 is inadmissible. An alien who is an officer,
20 official, representative, or spokesman of the
21 Palestine Liberation Organization is con-
22 sidered, for purposes of this Act, to be en-
23 gaged in a terrorist activity.”.

24 (b) *ENGAGE IN TERRORIST ACTIVITY DEFINED.*—Sec-
25 tion 212(a)(3)(B)(iv) of the Immigration and Nationality

1 *Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as fol-*
2 *lows:*

3 “(iv) *ENGAGE IN TERRORIST ACTIVITY*
4 *DEFINED.—As used in this subparagraph,*
5 *the term ‘engage in terrorist activity’*
6 *means, in an individual capacity or as a*
7 *member of an organization—*

8 “(I) *to commit or to incite to*
9 *commit, under circumstances indi-*
10 *cating an intention to cause death or*
11 *serious bodily injury, a terrorist activ-*
12 *ity;*

13 “(II) *to prepare or plan a ter-*
14 *rorist activity;*

15 “(III) *to gather information on*
16 *potential targets for terrorist activity;*

17 “(IV) *to solicit funds or other*
18 *things of value for—*

19 “(aa) *a terrorist activity;*

20 “(bb) *a terrorist organization*
21 *described in clause (vi)(I) or*
22 *(vi)(II); or*

23 “(cc) *a terrorist organization*
24 *described in clause (vi)(III), un-*
25 *less the solicitor can demonstrate*

1 *by clear and convincing evidence*
2 *that he did not know, and should*
3 *not reasonably have known, that*
4 *the organization was a terrorist*
5 *organization;*

6 *“(V) to solicit any individual—*

7 *“(aa) to engage in conduct*
8 *otherwise described in this clause;*

9 *“(bb) for membership in a*
10 *terrorist organization described in*
11 *clause (vi)(I) or (vi)(II); or*

12 *“(cc) for membership in a*
13 *terrorist organization described in*
14 *clause (vi)(III), unless the solici-*
15 *tor can demonstrate by clear and*
16 *convincing evidence that he did*
17 *not know, and should not reason-*
18 *ably have known, that the organi-*
19 *zation was a terrorist organiza-*
20 *tion; or*

21 *“(VI) to commit an act that the*
22 *actor knows, or reasonably should*
23 *know, affords material support, includ-*
24 *ing a safe house, transportation, com-*
25 *munications, funds, transfer of funds*

1 *or other material financial benefit,*
2 *false documentation or identification,*
3 *weapons (including chemical, biologi-*
4 *cal, or radiological weapons), explo-*
5 *sives, or training—*

6 *“(aa) for the commission of a*
7 *terrorist activity;*

8 *“(bb) to any individual who*
9 *the actor knows, or reasonably*
10 *should know, has committed or*
11 *plans to commit a terrorist activ-*
12 *ity;*

13 *“(cc) to a terrorist organiza-*
14 *tion described in subclause (I) or*
15 *(II) of clause (vi); or*

16 *“(dd) to a terrorist organiza-*
17 *tion described in clause (vi)(III),*
18 *unless the actor can demonstrate*
19 *by clear and convincing evidence*
20 *that the actor did not know, and*
21 *should not reasonably have*
22 *known, that the organization was*
23 *a terrorist organization.”.*

1 (c) *TERRORIST ORGANIZATION DEFINED.*—Section
2 212(a)(3)(B)(vi) of the Immigration and Nationality Act
3 (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

4 “(vi) *TERRORIST ORGANIZATION DE-*
5 *FINED.*—As used in this section, the term
6 ‘terrorist organization’ means an
7 organization—

8 “(I) designated under section 219;

9 “(II) otherwise designated, upon
10 publication in the Federal Register, by
11 the Secretary of State in consultation
12 with or upon the request of the Attor-
13 ney General or the Secretary of Home-
14 land Security, as a terrorist organiza-
15 tion, after finding that the organiza-
16 tion engages in the activities described
17 in subclauses (I) through (VI) of clause
18 (iv); or

19 “(III) that is a group of two or
20 more individuals, whether organized or
21 not, which engages in, or has a sub-
22 group which engages in, the activities
23 described in subclauses (I) through
24 (VI) of clause (iv).”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect on the date of the enactment of this*
3 *Act and shall apply to—*

4 (1) *removal proceedings instituted before, on, or*
5 *after the date of the enactment of this Act; and*

6 (2) *acts and conditions constituting a ground for*
7 *inadmissibility occurring or existing before, on, or*
8 *after such date.*

9 **SEC. 3035. DEPORTABILITY OF TERRORISTS.**

10 (a) *IN GENERAL.*—*Section 237(a)(4)(B) (8 U.S.C.*
11 *1227(a)(4)(B)) is amended to read as follows:*

12 “(B) *TERRORIST ACTIVITIES.*—*Any alien*
13 *who would be considered inadmissible pursuant*
14 *to subparagraph (B) or (F) of section 212(a)(3)*
15 *is deportable.”.*

16 (b) *DEPORTATION OF ALIENS WHO HAVE RECEIVED*
17 *MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZA-*
18 *TIONS.*—*Section 237(a)(4) of the Immigration and Nation-*
19 *ality Act (8 U.S.C. 1227(a)(4)) is amended by adding at*
20 *the end the following:*

21 “(E) *RECIPIENT OF MILITARY-TYPE TRAIN-*
22 *ING.*—*Any alien who has received military-type*
23 *training (as defined in section 2339D(c)(1) of*
24 *title 18, United States Code) from or on behalf*
25 *of any organization that, at the time the train-*

1 *ing was received, was a terrorist organization, as*
 2 *defined in section 212(a)(3)(B)(vi), is deport-*
 3 *able.”.*

4 *(c) EFFECTIVE DATE.—The amendment made by sub-*
 5 *section (a) shall take effect on the date of the enactment*
 6 *of this Act and shall apply to acts and conditions consti-*
 7 *tuting a ground for removal occurring or existing before,*
 8 *on, or after such date.*

9 **CHAPTER 3—PREVENTING COMMERCIAL**
 10 **ALIEN SMUGGLING**

11 **SEC. 3041. BRINGING IN AND HARBORING CERTAIN ALIENS.**

12 *(a) CRIMINAL PENALTIES.—Section 274(a) of the Im-*
 13 *migration and Nationality Act (8 U.S.C. 1324(a)) is*
 14 *amended by adding at the end the following:*

15 *“(4) In the case of a person who has brought aliens*
 16 *into the United States in violation of this subsection, the*
 17 *sentence otherwise provided for may be increased by up to*
 18 *10 years if—*

19 *“(A) the offense was part of an ongoing commer-*
 20 *cial organization or enterprise;*

21 *“(B) aliens were transported in groups of 10 or*
 22 *more;*

23 *“(C) aliens were transported in a manner that*
 24 *endangered their lives; or*

1 *as defined in section 1028(d) of title 18, United*
 2 *States Code, issued by a State.*

3 (3) *SECRETARY.*—*The term “Secretary” means*
 4 *the Secretary of Homeland Security.*

5 (4) *STATE.*—*The term “State” means a State of*
 6 *the United States, the District of Columbia, Puerto*
 7 *Rico, the Virgin Islands, Guam, American Samoa,*
 8 *the Northern Mariana Islands, the Trust Territory of*
 9 *the Pacific Islands, and any other territory or posses-*
 10 *sion of the United States.*

11 **SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**
 12 **ISSUANCE STANDARDS FOR FEDERAL REC-**
 13 **OGNITION.**

14 (a) *MINIMUM STANDARDS FOR FEDERAL USE.*—

15 (1) *IN GENERAL.*—*Beginning 3 years after the*
 16 *date of the enactment of this Act, a Federal agency*
 17 *may not accept, for any official purpose, a driver’s li-*
 18 *cence or identification card issued by a State to any*
 19 *person unless the State is meeting the requirements of*
 20 *this section.*

21 (2) *STATE CERTIFICATIONS.*—*The Secretary*
 22 *shall determine whether a State is meeting the re-*
 23 *quirements of this section based on certifications*
 24 *made by the State to the Secretary. Such certifi-*
 25 *cations shall be made at such times and in such man-*

1 *ner as the Secretary, in consultation with the Sec-*
2 *retary of Transportation, may prescribe by regula-*
3 *tion.*

4 *(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet*
5 *the requirements of this section, a State shall include, at*
6 *a minimum, the following information and features on each*
7 *driver’s license and identification card issued to a person*
8 *by the State:*

9 *(1) The person’s full legal name.*

10 *(2) The person’s date of birth.*

11 *(3) The person’s gender.*

12 *(4) The person’s driver license or identification*
13 *card number.*

14 *(5) A digital photograph of the person.*

15 *(6) The person’s address of principal residence.*

16 *(7) The person’s signature.*

17 *(8) Physical security features designed to prevent*
18 *tampering, counterfeiting, or duplication of the docu-*
19 *ment for fraudulent purposes.*

20 *(9) A common machine-readable technology, with*
21 *defined minimum data elements.*

22 *(c) MINIMUM ISSUANCE STANDARDS.—*

23 *(1) IN GENERAL.—To meet the requirements of*
24 *this section, a State shall require, at a minimum,*
25 *presentation and verification of the following infor-*

1 *mation before issuing a driver's license or identifica-*
2 *tion card to a person:*

3 *(A) A photo identity document, except that*
4 *a non-photo identity document is acceptable if it*
5 *includes both the person's full legal name and*
6 *date of birth.*

7 *(B) Documentation showing the person's*
8 *date of birth.*

9 *(C) Proof of the person's social security ac-*
10 *count number or verification that the person is*
11 *not eligible for a social security account number.*

12 *(D) Documentation showing the person's*
13 *name and address of principal residence.*

14 *(2) SPECIAL REQUIREMENTS.—*

15 *(A) IN GENERAL.—To meet the require-*
16 *ments of this section, a State shall comply with*
17 *the minimum standards of this paragraph.*

18 *(B) EVIDENCE OF LEGAL STATUS.—A State*
19 *shall require, before issuing a driver's license or*
20 *identification card to a person, valid documen-*
21 *tary evidence that the person—*

22 *(i) is a citizen of the United States;*

23 *(ii) is an alien lawfully admitted for*
24 *permanent or temporary residence in the*
25 *United States;*

1 (iii) has conditional permanent resi-
2 dent status in the United States;

3 (iv) has a valid, unexpired non-
4 immigrant visa or nonimmigrant visa sta-
5 tus for entry into the United States;

6 (v) has a pending or approved applica-
7 tion for asylum in the United States;

8 (vi) has entered into the United States
9 in refugee status;

10 (vii) has a pending or approved appli-
11 cation for temporary protected status in the
12 United States;

13 (viii) has approved deferred action sta-
14 tus; or

15 (ix) has a pending application for ad-
16 justment of status to that of an alien law-
17 fully admitted for permanent residence in
18 the United States or conditional permanent
19 resident status in the United States.

20 (C) *TEMPORARY DRIVERS' LICENSES AND*
21 *IDENTIFICATION CARDS.—*

22 (i) *IN GENERAL.—*If a person presents
23 evidence under any of clauses (iv) through
24 (ix) of subparagraph (B), the State may

1 *only issue a temporary driver's license or*
2 *temporary identification card to the person.*

3 (ii) *EXPIRATION DATE.*—*A temporary*
4 *driver's license or temporary identification*
5 *card issued pursuant to this subparagraph*
6 *shall be valid only during the period of time*
7 *of the applicant's authorized stay in the*
8 *United States or if there is no definite end*
9 *to the period of authorized stay a period of*
10 *one year.*

11 (iii) *DISPLAY OF EXPIRATION DATE.*—
12 *A temporary driver's license or temporary*
13 *identification card issued pursuant to this*
14 *subparagraph shall clearly indicate that it*
15 *is temporary and shall state the date on*
16 *which it expires.*

17 (iv) *RENEWAL.*—*A temporary driver's*
18 *license or temporary identification card*
19 *issued pursuant to this subparagraph may*
20 *be renewed only upon presentation of valid*
21 *documentary evidence that the status by*
22 *which the applicant qualified for the tem-*
23 *porary driver's license or temporary identi-*
24 *fication card has been extended by the Sec-*
25 *retary of Homeland Security.*

1 (3) *APPLICATIONS FOR RENEWAL, DUPLICATION,*
2 *OR REISSUANCE.*—

3 (A) *PRESUMPTION.*—*For purposes of para-*
4 *graphs (1) and (2), a State shall presume that*
5 *any driver's license or identification card for*
6 *which an application has been made for renewal,*
7 *duplication, or reissuance has been issued in ac-*
8 *cordance with the provisions of such paragraphs*
9 *if, at the time the application is made, the driv-*
10 *er's license or identification card has not expired*
11 *or been canceled, suspended, or revoked.*

12 (B) *LIMITATION.*—*Subparagraph (A) shall*
13 *not apply to a renewal, duplication, or*
14 *reissuance if the State is notified by a local,*
15 *State, or Federal government agency that the*
16 *person seeking such renewal, duplication, or*
17 *reissuance is neither a citizen of the United*
18 *States nor legally in the United States.*

19 (4) *VERIFICATION OF DOCUMENTS.*—*To meet the*
20 *requirements of this section, a State shall implement*
21 *the following procedures:*

22 (A) *Before issuing a driver's license or iden-*
23 *tification card to a person, the State shall verify,*
24 *with the issuing agency, the issuance, validity,*
25 *and completeness of each document required to be*

1 *presented by the person under paragraph (1) or*
2 *(2).*

3 *(B) The State shall not accept any foreign*
4 *document, other than an official passport, to sat-*
5 *isfy a requirement of paragraph (1) or (2).*

6 *(C) Not later than September 11, 2005, the*
7 *State shall enter into a memorandum of under-*
8 *standing with the Secretary of Homeland Secu-*
9 *rity to routinely utilize the automated system*
10 *known as Systematic Alien Verification for Enti-*
11 *tlements, as provided for by section 404 of the Il-*
12 *legal Immigration Reform and Immigrant Re-*
13 *sponsibility Act of 1996 (110 Stat. 3009–664), to*
14 *verify the legal presence status of a person, other*
15 *than a United States citizen, applying for a*
16 *driver’s license or identification card.*

17 *(d) OTHER REQUIREMENTS.—To meet the require-*
18 *ments of this section, a State shall adopt the following prac-*
19 *tices in the issuance of drivers’ licenses and identification*
20 *cards:*

21 *(1) Employ technology to capture digital images*
22 *of identity source documents so that the images can*
23 *be retained in electronic storage in a transferable for-*
24 *mat.*

1 (2) *Retain paper copies of source documents for*
2 *a minimum of 7 years or images of source documents*
3 *presented for a minimum of 10 years.*

4 (3) *Subject each person applying for a driver's*
5 *license or identification card to mandatory facial*
6 *image capture.*

7 (4) *Establish an effective procedure to confirm or*
8 *verify a renewing applicant's information.*

9 (5) *Confirm with the Social Security Adminis-*
10 *tration a social security account number presented by*
11 *a person using the full social security account num-*
12 *ber. In the event that a social security account num-*
13 *ber is already registered to or associated with another*
14 *person to which any State has issued a driver's li-*
15 *cence or identification card, the State shall resolve the*
16 *discrepancy and take appropriate action.*

17 (6) *Refuse to issue a driver's license or identi-*
18 *fication card to a person holding a driver's license*
19 *issued by another State without confirmation that the*
20 *person is terminating or has terminated the driver's*
21 *license.*

22 (7) *Ensure the physical security of locations*
23 *where drivers' licenses and identification cards are*
24 *produced and the security of document materials and*

1 *papers from which drivers' licenses and identification*
2 *cards are produced.*

3 (8) *Subject all persons authorized to manufac-*
4 *ture or produce drivers' licenses and identification*
5 *cards to appropriate security clearance requirements.*

6 (9) *Establish fraudulent document recognition*
7 *training programs for appropriate employees engaged*
8 *in the issuance of drivers' licenses and identification*
9 *cards.*

10 **SEC. 3053. LINKING OF DATABASES.**

11 (a) *IN GENERAL.—To be eligible to receive any grant*
12 *or other type of financial assistance made available under*
13 *this subtitle, a State shall participate in the interstate com-*
14 *pact regarding sharing of driver license data, known as the*
15 *“Driver License Agreement”, in order to provide electronic*
16 *access by a State to information contained in the motor*
17 *vehicle databases of all other States.*

18 (b) *REQUIREMENTS FOR INFORMATION.—A State*
19 *motor vehicle database shall contain, at a minimum, the*
20 *following information:*

21 (1) *All data fields printed on drivers' licenses*
22 *and identification cards issued by the State.*

23 (2) *Motor vehicle drivers' histories, including*
24 *motor vehicle violations, suspensions, and points on*
25 *licenses.*

1 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**
2 **FOR USE IN FALSE IDENTIFICATION DOCU-**
3 **MENTS.**

4 *Section 1028(a)(8) of title 18, United States Code, is*
5 *amended by striking “false authentication features” and in-*
6 *serting “false or actual authentication features”.*

7 **SEC. 3055. GRANTS TO STATES.**

8 *(a) IN GENERAL.—The Secretary may make grants to*
9 *a State to assist the State in conforming to the minimum*
10 *standards set forth in this chapter.*

11 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*
12 *authorized to be appropriated to the Secretary for each of*
13 *the fiscal years 2005 through 2009 such sums as may be*
14 *necessary to carry out this chapter.*

15 **SEC. 3056. AUTHORITY.**

16 *(a) PARTICIPATION OF SECRETARY OF TRANSPOR-*
17 *TATION AND STATES.—All authority to issue regulations,*
18 *certify standards, and issue grants under this chapter shall*
19 *be carried out by the Secretary, in consultation with the*
20 *Secretary of Transportation and the States.*

21 *(b) EXTENSIONS OF DEADLINES.—The Secretary may*
22 *grant to a State an extension of time to meet the require-*
23 *ments of section 3052(a)(1) if the State provides adequate*
24 *justification for noncompliance.*

1 **CHAPTER 2—IMPROVED SECURITY FOR**
2 **BIRTH CERTIFICATES**

3 **SEC. 3061. DEFINITIONS.**

4 (a) *APPLICABILITY OF DEFINITIONS.*—*Except as oth-*
5 *erwise specifically provided, the definitions contained in*
6 *section 3051 apply to this chapter.*

7 (b) *OTHER DEFINITIONS.*—*In this chapter, the fol-*
8 *lowing definitions apply:*

9 (1) *BIRTH CERTIFICATE.*—*The term “birth cer-*
10 *tificate” means a certificate of birth—*

11 (A) *for an individual (regardless of where*
12 *born)—*

13 (i) *who is a citizen or national of the*
14 *United States at birth; and*

15 (ii) *whose birth is registered in the*
16 *United States; and*

17 (B) *that—*

18 (i) *is issued by a Federal, State, or*
19 *local government agency or authorized cus-*
20 *todian of record and produced from birth*
21 *records maintained by such agency or custo-*
22 *dian of record; or*

23 (ii) *is an authenticated copy, issued by*
24 *a Federal, State, or local government agen-*
25 *cy or authorized custodian of record, of an*

1 *original certificate of birth issued by such*
2 *agency or custodian of record.*

3 (2) *REGISTRANT.*—*The term “registrant” means,*
4 *with respect to a birth certificate, the person whose*
5 *birth is registered on the certificate.*

6 (3) *STATE.*—*The term “State” shall have the*
7 *meaning given such term in section 3051; except that*
8 *New York City shall be treated as a State separate*
9 *from New York.*

10 **SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO**
11 **LOCAL GOVERNMENTS.**

12 *The minimum standards in this chapter applicable to*
13 *birth certificates issued by a State shall also apply to birth*
14 *certificates issued by a local government in the State. It*
15 *shall be the responsibility of the State to ensure that local*
16 *governments in the State comply with the minimum stand-*
17 *ards.*

18 **SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNI-**
19 **TION.**

20 (a) *MINIMUM STANDARDS FOR FEDERAL USE.*—

21 (1) *IN GENERAL.*—*Beginning 3 years after the*
22 *date of the enactment of this Act, a Federal agency*
23 *may not accept, for any official purpose, a birth cer-*
24 *tificate issued by a State to any person unless the*
25 *State is meeting the requirements of this section.*

1 (2) *STATE CERTIFICATIONS.*—*The Secretary*
2 *shall determine whether a State is meeting the re-*
3 *quirements of this section based on certifications*
4 *made by the State to the Secretary. Such certifi-*
5 *cations shall be made at such times and in such man-*
6 *ner as the Secretary, in consultation with the Sec-*
7 *retary of Health and Human Services, may prescribe*
8 *by regulation.*

9 (b) *MINIMUM DOCUMENT STANDARDS.*—*To meet the*
10 *requirements of this section, a State shall include, on each*
11 *birth certificate issued to a person by the State, the use of*
12 *safety paper, the seal of the issuing custodian of record, and*
13 *such other features as the Secretary may determine nec-*
14 *essary to prevent tampering, counterfeiting, and otherwise*
15 *duplicating the birth certificate for fraudulent purposes.*
16 *The Secretary may not require a single design to which*
17 *birth certificates issued by all States must conform.*

18 (c) *MINIMUM ISSUANCE STANDARDS.*—

19 (1) *IN GENERAL.*—*To meet the requirements of*
20 *this section, a State shall require and verify the fol-*
21 *lowing information from the requestor before issuing*
22 *an authenticated copy of a birth certificate:*

23 (A) *The name on the birth certificate.*

24 (B) *The date and location of the birth.*

25 (C) *The mother's maiden name.*

1 (D) *Substantial proof of the requestor's*
2 *identity.*

3 (2) *ISSUANCE TO PERSONS NOT NAMED ON*
4 *BIRTH CERTIFICATE.—To meet the requirements of*
5 *this section, in the case of a request by a person who*
6 *is not named on the birth certificate, a State must re-*
7 *quire the presentation of legal authorization to re-*
8 *quest the birth certificate before issuance.*

9 (3) *ISSUANCE TO FAMILY MEMBERS.—Not later*
10 *than one year after the date of the enactment of this*
11 *Act, the Secretary, in consultation with the Secretary*
12 *of Health and Human Services and the States, shall*
13 *establish minimum standards for issuance of a birth*
14 *certificate to specific family members, their author-*
15 *ized representatives, and others who demonstrate that*
16 *the certificate is needed for the protection of the re-*
17 *questor's personal or property rights.*

18 (4) *WAIVERS.—A State may waive the require-*
19 *ments set forth in subparagraphs (A) through (C) of*
20 *subsection (c)(1) in exceptional circumstances, such as*
21 *the incapacitation of the registrant.*

22 (5) *APPLICATIONS BY ELECTRONIC MEANS.—To*
23 *meet the requirements of this section, for applications*
24 *by electronic means, through the mail or by phone or*
25 *fax, a State shall employ third party verification, or*

1 *equivalent verification, of the identity of the re-*
2 *questor.*

3 (6) *VERIFICATION OF DOCUMENTS.—To meet the*
4 *requirements of this section, a State shall verify the*
5 *documents used to provide proof of identity of the re-*
6 *questor.*

7 (d) *OTHER REQUIREMENTS.—To meet the require-*
8 *ments of this section, a State shall adopt, at a minimum,*
9 *the following practices in the issuance and administration*
10 *of birth certificates:*

11 (1) *Establish and implement minimum building*
12 *security standards for State and local vital record of-*
13 *fices.*

14 (2) *Restrict public access to birth certificates and*
15 *information gathered in the issuance process to ensure*
16 *that access is restricted to entities with which the*
17 *State has a binding privacy protection agreement.*

18 (3) *Subject all persons with access to vital*
19 *records to appropriate security clearance require-*
20 *ments.*

21 (4) *Establish fraudulent document recognition*
22 *training programs for appropriate employees engaged*
23 *in the issuance process.*

24 (5) *Establish and implement internal operating*
25 *system standards for paper and for electronic systems.*

1 (6) *Establish a central database that can provide*
2 *interoperative data exchange with other States and*
3 *with Federal agencies, subject to privacy restrictions*
4 *and confirmation of the authority and identity of the*
5 *requestor.*

6 (7) *Ensure that birth and death records are*
7 *matched in a comprehensive and timely manner, and*
8 *that all electronic birth records and paper birth cer-*
9 *tificates of decedents are marked “deceased”.*

10 (8) *Cooperate with the Secretary in the imple-*
11 *mentation of electronic verification of vital events*
12 *under section 3065.*

13 **SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
14 **DEATH REGISTRATION SYSTEMS.**

15 *In consultation with the Secretary of Health and*
16 *Human Services and the Commissioner of Social Security,*
17 *the Secretary shall take the following actions:*

18 (1) *Work with the States to establish a common*
19 *data set and common data exchange protocol for elec-*
20 *tronic birth registration systems and death registra-*
21 *tion systems.*

22 (2) *Coordinate requirements for such systems to*
23 *align with a national model.*

24 (3) *Ensure that fraud prevention is built into*
25 *the design of electronic vital registration systems in*

1 *the collection of vital event data, the issuance of birth*
2 *certificates, and the exchange of data among govern-*
3 *ment agencies.*

4 (4) *Ensure that electronic systems for issuing*
5 *birth certificates, in the form of printed abstracts of*
6 *birth records or digitized images, employ a common*
7 *format of the certified copy, so that those requiring*
8 *such documents can quickly confirm their validity.*

9 (5) *Establish uniform field requirements for*
10 *State birth registries.*

11 (6) *Not later than 1 year after the date of the*
12 *enactment of this Act, establish a process with the De-*
13 *partment of Defense that will result in the sharing of*
14 *data, with the States and the Social Security Admin-*
15 *istration, regarding deaths of United States military*
16 *personnel and the birth and death of their dependents.*

17 (7) *Not later than 1 year after the date of the*
18 *enactment of this Act, establish a process with the De-*
19 *partment of State to improve registration, notifica-*
20 *tion, and the sharing of data with the States and the*
21 *Social Security Administration, regarding births and*
22 *deaths of United States citizens abroad.*

23 (8) *Not later than 3 years after the date of estab-*
24 *lishment of databases provided for under this section,*
25 *require States to record and retain electronic records*

1 of pertinent identification information collected from
2 requestors who are not the registrants.

3 (9) Not later than 6 months after the date of the
4 enactment of this Act, submit to Congress, a report on
5 whether there is a need for Federal laws to address
6 penalties for fraud and misuse of vital records and
7 whether violations are sufficiently enforced.

8 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

9 (a) *LEAD AGENCY.*—The Secretary shall lead the im-
10 plementation of electronic verification of a person’s birth
11 and death.

12 (b) *REGULATIONS.*—In carrying out subsection (a), the
13 Secretary shall issue regulations to establish a means by
14 which authorized Federal and State agency users with a
15 single interface will be able to generate an electronic query
16 to any participating vital records jurisdiction throughout
17 the Nation to verify the contents of a paper birth certificate.
18 Pursuant to the regulations, an electronic response from the
19 participating vital records jurisdiction as to whether there
20 is a birth record in their database that matches the paper
21 birth certificate will be returned to the user, along with an
22 indication if the matching birth record has been flagged
23 “deceased”. The regulations shall take effect not later than
24 5 years after the date of the enactment of this Act.

1 **SEC. 3066. GRANTS TO STATES.**

2 (a) *IN GENERAL.*—*The Secretary may make grants to*
3 *a State to assist the State in conforming to the minimum*
4 *standards set forth in this chapter.*

5 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
6 *authorized to be appropriated to the Secretary for each of*
7 *the fiscal years 2005 through 2009 such sums as may be*
8 *necessary to carry out this chapter.*

9 **SEC. 3067. AUTHORITY.**

10 (a) *PARTICIPATION WITH FEDERAL AGENCIES AND*
11 *STATES.*—*All authority to issue regulations, certify stand-*
12 *ards, and issue grants under this chapter shall be carried*
13 *out by the Secretary, with the concurrence of the Secretary*
14 *of Health and Human Services and in consultation with*
15 *State vital statistics offices and appropriate Federal agen-*
16 *cies.*

17 (b) *EXTENSIONS OF DEADLINES.*—*The Secretary may*
18 *grant to a State an extension of time to meet the require-*
19 *ments of section 3063(a)(1) if the State provides adequate*
20 *justification for noncompliance.*

1 **CHAPTER 3—MEASURES TO ENHANCE PRI-**
2 **VACY AND INTEGRITY OF SOCIAL SE-**
3 **CURITY ACCOUNT NUMBERS**

4 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**
5 **RITY ACCOUNT NUMBERS ON DRIVER'S LI-**
6 **CENSES OR MOTOR VEHICLE REGISTRA-**
7 **TIONS.**

8 *(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the So-*
9 *cial Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is*
10 *amended—*

11 *(1) by inserting “(I)” after “(vi)”;* and

12 *(2) by adding at the end the following new sub-*
13 *clause:*

14 *“(II) Any State or political subdivision thereof (and*
15 *any person acting as an agent of such an agency or instru-*
16 *mentality), in the administration of any driver’s license or*
17 *motor vehicle registration law within its jurisdiction, may*
18 *not display a social security account number issued by the*
19 *Commissioner of Social Security (or any derivative of such*
20 *number) on any driver’s license or motor vehicle registra-*
21 *tion or any other document issued by such State or political*
22 *subdivision to an individual for purposes of identification*
23 *of such individual or include on any such license, registra-*
24 *tion, or other document a magnetic strip, bar code, or other*

1 *means of communication which conveys such number (or*
 2 *derivative thereof).”.*

3 **(b) EFFECTIVE DATE.**—*The amendments made by this*
 4 *section shall apply with respect to licenses, registrations,*
 5 *and other documents issued or reissued after 1 year after*
 6 *the date of the enactment of this Act.*

7 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**
 8 **RECORDS PROVIDED IN SUPPORT OF APPLI-**
 9 **CATIONS FOR SOCIAL SECURITY ACCOUNT**
 10 **NUMBERS.**

11 **(a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT**
 12 **NUMBERS.**—*Section 205(c)(2)(B)(ii) of the Social Security*
 13 *Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—*

14 (1) *by inserting “(I)” after “(ii)”;* and

15 (2) *by adding at the end the following new sub-*
 16 *clause:*

17 **“(II) With respect to an application for a social secu-**
 18 *rity account number for an individual, other than for pur-*
 19 *poses of enumeration at birth, the Commissioner shall re-*
 20 *quire independent verification of any birth record provided*
 21 *by the applicant in support of the application. The Com-*
 22 *missioner may provide by regulation for reasonable excep-*
 23 *tions from the requirement for independent verification*
 24 *under this subclause in any case in which the Commissioner*
 25 *determines there is minimal opportunity for fraud.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall apply with respect to applications filed*
3 *after 270 days after the date of the enactment of this Act.*

4 (c) *STUDY REGARDING APPLICATIONS FOR REPLACE-*
5 *MENT SOCIAL SECURITY CARDS.*—

6 (1) *IN GENERAL.*—*As soon as practicable after*
7 *the date of the enactment of this Act, the Commis-*
8 *sioner of Social Security shall undertake a study to*
9 *test the feasibility and cost effectiveness of verifying*
10 *all identification documents submitted by an appli-*
11 *cant for a replacement social security card. As part*
12 *of such study, the Commissioner shall determine the*
13 *feasibility of, and the costs associated with, the devel-*
14 *opment of appropriate electronic processes for third*
15 *party verification of any such identification docu-*
16 *ments which are issued by agencies and instrumental-*
17 *ities of the Federal Government and of the States*
18 *(and political subdivisions thereof).*

19 (2) *REPORT.*—*Not later than 2 years after the*
20 *date of the enactment of this Act, the Commissioner*
21 *shall report to the Committee on Ways and Means of*
22 *the House of Representatives and the Committee on*
23 *Finance of the Senate regarding the results of the*
24 *study undertaken under paragraph (1). Such report*
25 *shall contain such recommendations for legislative*

1 *changes as the Commissioner considers necessary to*
2 *implement needed improvements in the process for*
3 *verifying identification documents submitted by ap-*
4 *plicants for replacement social security cards.*

5 **SEC. 3073. ENUMERATION AT BIRTH.**

6 *(a) IMPROVEMENT OF APPLICATION PROCESS.—*

7 *(1) IN GENERAL.—As soon as practicable after*
8 *the date of the enactment of this Act, the Commis-*
9 *sioner of Social Security shall undertake to make im-*
10 *provements to the enumeration at birth program for*
11 *the issuance of social security account numbers to*
12 *newborns. Such improvements shall be designed to*
13 *prevent—*

14 *(A) the assignment of social security ac-*
15 *count numbers to unnamed children;*

16 *(B) the issuance of more than 1 social secu-*
17 *rity account number to the same child; and*

18 *(C) other opportunities for fraudulently ob-*
19 *taining a social security account number.*

20 *(2) REPORT TO THE CONGRESS.—Not later than*
21 *1 year after the date of the enactment of this Act, the*
22 *Commissioner shall transmit to each House of the*
23 *Congress a report specifying in detail the extent to*
24 *which the improvements required under paragraph*
25 *(1) have been made.*

1 **(b) STUDY REGARDING PROCESS FOR ENUMERATION**
2 *AT BIRTH.*—

3 **(1) IN GENERAL.**—*As soon as practicable after*
4 *the date of the enactment of this Act, the Commis-*
5 *sioner of Social Security shall undertake a study to*
6 *determine the most efficient options for ensuring the*
7 *integrity of the process for enumeration at birth. Such*
8 *study shall include an examination of available meth-*
9 *ods for reconciling hospital birth records with birth*
10 *registrations submitted to agencies of States and po-*
11 *litical subdivisions thereof and with information pro-*
12 *vided to the Commissioner as part of the process for*
13 *enumeration at birth.*

14 **(2) REPORT.**—*Not later than 18 months after the*
15 *date of the enactment of this Act, the Commissioner*
16 *shall report to the Committee on Ways and Means of*
17 *the House of Representatives and the Committee on*
18 *Finance of the Senate regarding the results of the*
19 *study undertaken under paragraph (1). Such report*
20 *shall contain such recommendations for legislative*
21 *changes as the Commissioner considers necessary to*
22 *implement needed improvements in the process for*
23 *enumeration at birth.*

1 **SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**
2 **IDENTIFICATION IN CONNECTION WITH AP-**
3 **PLICATIONS FOR BENEFITS, SOCIAL SECUR-**
4 **ITY ACCOUNT NUMBERS, AND SOCIAL SECUR-**
5 **ITY CARDS.**

6 (a) *IN GENERAL.*—As soon as practicable after the
7 date of the enactment of this Act, the Commissioner of So-
8 cial Security shall undertake a study to—

9 (1) *determine the best method of requiring and*
10 *obtaining photographic identification of applicants*
11 *for old-age, survivors, and disability insurance bene-*
12 *fits under title II of the Social Security Act, for a so-*
13 *cial security account number, or for a replacement so-*
14 *cial security card, and of providing for reasonable ex-*
15 *ceptions to any requirement for photographic identi-*
16 *fication of such applicants that may be necessary to*
17 *promote efficient and effective administration of such*
18 *title, and*

19 (2) *evaluate the benefits and costs of instituting*
20 *such a requirement for photographic identification,*
21 *including the degree to which the security and integ-*
22 *egrity of the old-age, survivors, and disability insurance*
23 *program would be enhanced.*

24 (b) *REPORT.*—Not later than 18 months after the date
25 of the enactment of this Act, the Commissioner shall report
26 to the Committee on Ways and Means of the House of Rep-

1 *representatives and the Committee on Finance of the Senate*
2 *regarding the results of the study undertaken under sub-*
3 *section (a). Such report shall contain such recommenda-*
4 *tions for legislative changes as the Commissioner considers*
5 *necessary relating to requirements for photographic identi-*
6 *fication of applicants described in subsection (a).*

7 **SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-**
8 **PLACEMENT SOCIAL SECURITY CARDS.**

9 *(a) IN GENERAL.—Section 205(c)(2)(G) of the Social*
10 *Security Act (42 U.S.C. 405(c)(2)(G)) is amended by add-*
11 *ing at the end the following new sentence: “The Commis-*
12 *sioner shall restrict the issuance of multiple replacement so-*
13 *cial security cards to any individual to 3 per year and*
14 *to 10 for the life of the individual, except in any case in*
15 *which the Commissioner determines there is minimal op-*
16 *portunity for fraud.”.*

17 *(b) REGULATIONS AND EFFECTIVE DATE.—The Com-*
18 *missioner of Social Security shall issue regulations under*
19 *the amendment made by subsection (a) not later than 1*
20 *year after the date of the enactment of this Act. Systems*
21 *controls developed by the Commissioner pursuant to such*
22 *amendment shall take effect upon the earlier of the issuance*
23 *of such regulations or the end of such 1-year period.*

1 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SO-**
2 **CIAL SECURITY ACCOUNT NUMBERING SYS-**
3 **TEM TO SHOW WORK AUTHORIZATION STA-**
4 **TUS.**

5 (a) *IN GENERAL.*—As soon as practicable after the
6 date of the enactment of this Act, the Commissioner of So-
7 cial Security, in consultation with the Secretary of Home-
8 land Security, shall undertake a study to examine the best
9 method of modifying the social security account number as-
10 signed to individuals who—

11 (1) *are not citizens of the United States,*

12 (2) *have not been admitted for permanent resi-*
13 *dence, and*

14 (3) *are not authorized by the Secretary of Home-*
15 *land Security to work in the United States, or are so*
16 *authorized subject to one or more restrictions,*

17 *so as to include an indication of such lack of authorization*
18 *to work or such restrictions on such an authorization.*

19 (b) *REPORT.*—Not later than 1 year after the date of
20 the enactment of this Act, the Commissioner shall report
21 to the Committee on Ways and Means of the House of Rep-
22 resentatives and the Committee on Finance of the Senate
23 regarding the results of the study undertaken under this sec-
24 tion. Such report shall include the Commissioner's rec-
25 ommendations of feasible options for modifying the social

1 security account number in the manner described in sub-
2 section (a).

3 **Subtitle C—Targeting Terrorist**
4 **Travel**

5 **SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS**
6 **AND TRAVEL HISTORY DATABASE.**

7 (a) *IN GENERAL.*—Not later than May 31, 2005, the
8 Comptroller General of the United States, the Secretary of
9 State, and the Secretary of Homeland Security each shall
10 submit to the Committees on the Judiciary of the House
11 of Representatives and of the Senate, the Committee on
12 International Relations of the House of Representatives,
13 and the Committee on Foreign Relations of the Senate the
14 results of a separate study on the subjects described in sub-
15 section (c).

16 (b) *STUDY.*—The study submitted by the Secretary of
17 State under subsection (a) shall be completed by the Office
18 of Visa and Passport Control of the Department of State,
19 in coordination with the appropriate officials of the Depart-
20 ment of Homeland Security.

21 (c) *CONTENTS.*—The studies described in subsection
22 (a) shall examine the feasibility, cost, potential benefits,
23 and relative importance to the objectives of tracking sus-
24 pected terrorists' travel, and apprehending suspected terror-
25 ists, of each of the following:

1 (3) by striking “number of aliens” and inserting
2 “number of inadmissible aliens, especially aliens who
3 are potential terrorists,”;

4 (4) by striking “who are inadmissible to the
5 United States.” and inserting a period; and

6 (5) by striking “Attorney General” each place
7 such term appears and inserting “Secretary of Home-
8 land Security”.

9 (b) *REPORT.*—Not later than June 30, 2006, the Sec-
10 retary of Homeland Security and the Secretary of State
11 shall report to the Committees on the Judiciary of the House
12 of Representatives and of the Senate, the Committee on
13 International Relations of the House of Representatives,
14 and the Committee on Foreign Relations of the Senate on
15 the progress being made in implementing the amendments
16 made by subsection (a).

17 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
18 authorized to be appropriated to the Secretary of Homeland
19 Security to carry out the amendments made by subsection
20 (a)—

21 (1) \$24,000,000 for fiscal year 2005;

22 (2) \$48,000,000 for fiscal year 2006; and

23 (3) \$97,000,000 for fiscal year 2007.

1 **SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

2 (a) *IN GENERAL.*—Section 235A(b) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1225(b)) is amended—

4 (1) in the subsection heading, by inserting “AND
5 IMMIGRATION SECURITY INITIATIVE” after “PRO-
6 GRAM”; and

7 (2) by adding at the end the following:

8 “Beginning not later than December 31, 2006, the number
9 of airports selected for an assignment under this subsection
10 shall be at least 50.”.

11 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There are
12 authorized to be appropriated to the Secretary of Homeland
13 Security to carry out the amendments made by subsection
14 (a)—

15 (1) \$25,000,000 for fiscal year 2005;

16 (2) \$40,000,000 for fiscal year 2006; and

17 (3) \$40,000,000 for fiscal year 2007.

18 **SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-**
19 **SULAR OFFICERS.**

20 (a) *INCREASED NUMBER OF CONSULAR OFFICERS.*—
21 The Secretary of State, in each of fiscal years 2006 through
22 2009, may increase by 150 the number of positions for con-
23 sular officers above the number of such positions for which
24 funds were allotted for the preceding fiscal year.

25 (b) *LIMITATION ON USE OF FOREIGN NATIONALS FOR*
26 *NONIMMIGRANT VISA SCREENING.*—Section 222(d) of the

1 *Immigration and Nationality Act (8 U.S.C. 1202(d)) is*
2 *amended by adding at the end the following:*

3 *“All nonimmigrant visa applications shall be reviewed and*
4 *adjudicated by a consular officer.”.*

5 *(c) TRAINING FOR CONSULAR OFFICERS IN DETEC-*
6 *TION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the*
7 *Enhanced Border Security and Visa Entry Reform Act of*
8 *2002 (8 U.S.C. 1734(a)) is amended by adding at the end*
9 *the following: “As part of the consular training provided*
10 *to such officers by the Secretary of State, such officers shall*
11 *also receive training in detecting fraudulent documents and*
12 *general document forensics and shall be required as part*
13 *of such training to work with immigration officers con-*
14 *ducting inspections of applicants for admission into the*
15 *United States at ports of entry.”.*

16 *(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—*

17 *(1) SURVEY REGARDING DOCUMENT FRAUD.—*
18 *The Secretary of State, in coordination with the Sec-*
19 *retary of Homeland Security, shall conduct a survey*
20 *of each diplomatic and consular post at which visas*
21 *are issued to assess the extent to which fraudulent*
22 *documents are presented by visa applicants to con-*
23 *sular officers at such posts.*

24 *(2) PLACEMENT OF SPECIALIST.—Not later than*
25 *July 31, 2005, the Secretary shall, in coordination*

1 *with the Secretary of Homeland Security, identify*
2 *100 of such posts that experience the greatest fre-*
3 *quency of presentation of fraudulent documents by*
4 *visa applicants. The Secretary shall place in each*
5 *such post at least one full-time anti-fraud specialist*
6 *employed by the Department of State to assist the*
7 *consular officers at each such post in the detection of*
8 *such fraud.*

9 **SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-**
10 **LATED ACTIVITY.**

11 *Section 1028 of title 18, United States Code, relating*
12 *to penalties for fraud and related activity in connection*
13 *with identification documents and information, is*
14 *amended—*

15 (1) *in subsection (b)(1)(A)(i), by striking “issued*
16 *by or under the authority of the United States” and*
17 *inserting the following: “as described in subsection*
18 *(d)”;*

19 (2) *in subsection (b)(2), by striking “three years”*
20 *and inserting “six years”;*

21 (3) *in subsection (b)(3), by striking “20 years”*
22 *and inserting “25 years”;*

23 (4) *in subsection (b)(4), by striking “25 years”*
24 *and inserting “30 years”; and*

1 (5) *in subsection (c)(1), by inserting after*
 2 *“United States” the following: “Government, a State,*
 3 *political subdivision of a State, a foreign government,*
 4 *political subdivision of a foreign government, an*
 5 *international governmental or an international*
 6 *quasi-governmental organization,”.*

7 **SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-**
 8 **ZENSHIP.**

9 *Section 1015 of title 18, United States Code, is*
 10 *amended—*

11 (1) *by striking the dash at the end of subsection*
 12 *(f) and inserting “; or”; and*

13 (2) *by inserting after subsection (f) the following:*
 14 *“(g) Whoever knowingly makes any false statement or*
 15 *claim that he is a citizen of the United States in order to*
 16 *enter into, or remain in, the United States—”.*

17 **SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE**
 18 **DEPARTMENT OF STATE.**

19 (a) *LIMITATION.—Notwithstanding any other provi-*
 20 *sion of law, the Secretary of State shall ensure, subject to*
 21 *subsection (b), that the Antiterrorism Assistance Training*
 22 *(ATA) program of the Department of State (or any suc-*
 23 *cessor or related program) under chapter 8 of part II of*
 24 *the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et*
 25 *seq.) (or other relevant provisions of law) is carried out pri-*

1 *marily to provide training to host nation security services*
2 *for the specific purpose of ensuring the physical security*
3 *and safety of United States Government facilities and per-*
4 *sonnel abroad (as well as foreign dignitaries and training*
5 *related to the protection of such dignitaries), including se-*
6 *curity detail training and offenses related to passport or*
7 *visa fraud.*

8 (b) *EXCEPTION.*—*The limitation contained in sub-*
9 *section (a) shall not apply, and the Secretary of State may*
10 *expand the ATA program to include other types of*
11 *antiterrorism assistance training, if the Secretary first ob-*
12 *tains the approval of the Attorney General and provides*
13 *written notification of such proposed expansion to the ap-*
14 *propriate congressional committees.*

15 (c) *DEFINITION.*—*In this section, the term “appro-*
16 *priate congressional committees” means—*

17 (1) *the Committee on International Relations*
18 *and the Committee on the Judiciary of the House of*
19 *Representatives; and*

20 (2) *the Committee on Foreign Relations and the*
21 *Committee on the Judiciary of the Senate.*

1 **SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND**
2 **CURTAIN TERRORIST TRAVEL THROUGH THE**
3 **USE OF FRAUDULENTLY OBTAINED DOCU-**
4 **MENTS.**

5 (a) *FINDINGS.*—Congress finds the following:

6 (1) *International terrorists travel across inter-*
7 *national borders to raise funds, recruit members,*
8 *train for operations, escape capture, communicate,*
9 *and plan and carry out attacks.*

10 (2) *The international terrorists who planned and*
11 *carried out the attack on the World Trade Center on*
12 *February 26, 1993, the attack on the embassies of the*
13 *United States in Kenya and Tanzania on August 7,*
14 *1998, the attack on the USS Cole on October 12,*
15 *2000, and the attack on the World Trade Center and*
16 *the Pentagon on September 11, 2001, traveled across*
17 *international borders to plan and carry out these at-*
18 *tacks.*

19 (3) *The international terrorists who planned*
20 *other attacks on the United States, including the plot*
21 *to bomb New York City landmarks in 1993, the plot*
22 *to bomb the New York City subway in 1997, and the*
23 *millennium plot to bomb Los Angeles International*
24 *Airport on December 31, 1999, traveled across inter-*
25 *national borders to plan and carry out these attacks.*

1 (4) *Many of the international terrorists who*
2 *planned and carried out large-scale attacks against*
3 *foreign targets, including the attack in Bali, Indo-*
4 *nesia, on October 11, 2002, and the attack in Madrid,*
5 *Spain, on March 11, 2004, traveled across inter-*
6 *national borders to plan and carry out these attacks.*

7 (5) *Throughout the 1990s, international terror-*
8 *ists, including those involved in the attack on the*
9 *World Trade Center on February 26, 1993, the plot*
10 *to bomb New York City landmarks in 1993, and the*
11 *millennium plot to bomb Los Angeles International*
12 *Airport on December 31, 1999, traveled on fraudulent*
13 *passports and often had more than one passport.*

14 (6) *Two of the September 11, 2001, hijackers*
15 *were carrying passports that had been manipulated*
16 *in a fraudulent manner and several other hijackers*
17 *whose passports did not survive the attacks on the*
18 *World Trade Center and Pentagon were likely to have*
19 *carried passports that were similarly manipulated.*

20 (7) *The National Commission on Terrorist At-*
21 *tacks upon the United States, (commonly referred to*
22 *as the 9/11 Commission), stated that “Targeting trav-*
23 *el is at least as powerful a weapon against terrorists*
24 *as targeting their money.”*

1 (b) *INTERNATIONAL AGREEMENTS TO TRACK AND*
2 *CURTAIN TERRORIST TRAVEL.*—

3 (1) *INTERNATIONAL AGREEMENT ON LOST, STO-*
4 *LEN, OR FALSIFIED DOCUMENTS.*—*The President shall*
5 *lead efforts to track and curtail the travel of terrorists*
6 *by supporting the drafting, adoption, and implemen-*
7 *tation of international agreements, and by supporting*
8 *the expansion of existing international agreements, to*
9 *track and stop international travel by terrorists and*
10 *other criminals through the use of lost, stolen, or fal-*
11 *sified documents to augment existing United Nations*
12 *and other international anti-terrorism efforts.*

13 (2) *CONTENTS OF INTERNATIONAL AGREE-*
14 *MENT.*—*The President shall seek, in the appropriate*
15 *fora, the drafting, adoption, and implementation of*
16 *an effective international agreement requiring—*

17 (A) *the establishment of a system to share*
18 *information on lost, stolen, and fraudulent pass-*
19 *ports and other travel documents for the pur-*
20 *poses of preventing the undetected travel of per-*
21 *sons using such passports and other travel docu-*
22 *ments that were obtained improperly;*

23 (B) *the establishment and implementation*
24 *of a real-time verification system of passports*

1 *and other travel documents with issuing authori-*
2 *ties;*

3 (C) *the assumption of an obligation by*
4 *countries that are parties to the agreement to*
5 *share with officials at ports of entry in any such*
6 *country information relating to lost, stolen, and*
7 *fraudulent passports and other travel documents;*

8 (D) *the assumption of an obligation by*
9 *countries that are parties to the agreement—*

10 (i) *to criminalize—*

11 (I) *the falsification or counter-*
12 *feiting of travel documents or breeder*
13 *documents for any purpose;*

14 (II) *the use or attempted use of*
15 *false documents to obtain a visa or*
16 *cross a border for any purpose;*

17 (III) *the possession of tools or im-*
18 *plements used to falsify or counterfeit*
19 *such documents;*

20 (IV) *the trafficking in false or sto-*
21 *len travel documents and breeder docu-*
22 *ments for any purpose;*

23 (V) *the facilitation of travel by a*
24 *terrorist; and*

1 (VI) attempts to commit, includ-
2 ing conspiracies to commit, the crimes
3 specified above;

4 (ii) to impose significant penalties so
5 as to appropriately punish violations and
6 effectively deter these crimes; and

7 (iii) to limit the issuance of citizenship
8 papers, passports, identification documents,
9 and the like to persons whose identity is
10 proven to the issuing authority, who have a
11 bona fide entitlement to or need for such
12 documents, and who are not issued such
13 documents principally on account of a dis-
14 proportional payment made by them or on
15 their behalf to the issuing authority;

16 (E) the provision of technical assistance to
17 State Parties to help them meet their obligations
18 under the convention;

19 (F) the establishment and implementation
20 of a system of self-assessments and peer reviews
21 to examine the degree of compliance with the
22 convention; and

23 (G) an agreement that would permit immi-
24 gration and border officials to confiscate a lost,
25 stolen, or falsified passport at ports of entry and

1 *permit the traveler to return to the sending coun-*
2 *try without being in possession of the lost, stolen,*
3 *or falsified passport, and for the detention and*
4 *investigation of such traveler upon the return of*
5 *the traveler to the sending country.*

6 (3) *INTERNATIONAL CIVIL AVIATION ORGANIZA-*
7 *TION.—The United States shall lead efforts to track*
8 *and curtail the travel of terrorists by supporting ef-*
9 *forts at the International Civil Aviation Organization*
10 *to continue to strengthen the security features of pass-*
11 *ports and other travel documents.*

12 (c) *REPORT.—*

13 (1) *IN GENERAL.—Not later than one year after*
14 *the date of the enactment of this Act, and at least an-*
15 *nually thereafter, the President shall submit to the*
16 *appropriate congressional committees a report on*
17 *progress toward achieving the goals described in sub-*
18 *section (b).*

19 (2) *TERMINATION.—Paragraph (1) shall cease to*
20 *be effective when the President certifies to the Com-*
21 *mittee on International Relations of the House of*
22 *Representatives and the Committee on Foreign Rela-*
23 *tions of the Senate that the goals described in sub-*
24 *section (b) have been fully achieved.*

1 **SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION**
2 **OF NAMES INTO THE ROMAN ALPHABET FOR**
3 **INTERNATIONAL TRAVEL DOCUMENTS AND**
4 **NAME-BASED WATCHLIST SYSTEMS.**

5 (a) *FINDINGS.*—Congress finds that—

6 (1) *the current lack of a single convention for*
7 *translating Arabic names enabled some of the 19 hi-*
8 *jackers of aircraft used in the terrorist attacks against*
9 *the United States that occurred on September 11,*
10 *2001, to vary the spelling of their names to defeat*
11 *name-based terrorist watchlist systems and to make*
12 *more difficult any potential efforts to locate them;*
13 *and*

14 (2) *although the development and utilization of*
15 *terrorist watchlist systems using biometric identifiers*
16 *will be helpful, the full development and utilization of*
17 *such systems will take several years, and name-based*
18 *terrorist watchlist systems will always be useful.*

19 (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*
20 *that the President should seek to enter into an international*
21 *agreement to modernize and improve standards for the*
22 *translation of names into the Roman alphabet in order to*
23 *ensure one common spelling for such names for inter-*
24 *national travel documents and name-based watchlist sys-*
25 *tems.*

1 **SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

2 (a) *FINDING.*—*Consistent with the report of the Na-*
3 *tional Commission on Terrorist Attacks Upon the United*
4 *States, the Congress finds that completing a biometric entry*
5 *and exit data system as expeditiously as possible is an es-*
6 *sential investment in efforts to protect the United States*
7 *by preventing the entry of terrorists.*

8 (b) *PLAN AND REPORT.*—

9 (1) *DEVELOPMENT OF PLAN.*—*The Secretary of*
10 *Homeland Security shall develop a plan to accelerate*
11 *the full implementation of an automated biometric*
12 *entry and exit data system required by applicable sec-*
13 *tions of—*

14 (A) *the Illegal Immigration Reform and*
15 *Immigrant Responsibility Act of 1996 (Public*
16 *Law 104–208);*

17 (B) *the Immigration and Naturalization*
18 *Service Data Management Improvement Act of*
19 *2000 (Public Law 106–205);*

20 (C) *the Visa Waiver Permanent Program*
21 *Act (Public Law 106–396);*

22 (D) *the Enhanced Border Security and Visa*
23 *Entry Reform Act of 2002 (Public Law 107–*
24 *173); and*

25 (E) *the Uniting and Strengthening America*
26 *by Providing Appropriate Tools Required to*

1 *Intercept and Obstruct Terrorism Act of 2001*
2 *(Public Law 107–56).*

3 (2) *REPORT.*—*Not later than 180 days after the*
4 *date of the enactment of this Act, the Secretary of*
5 *Homeland Security shall submit a report to Congress*
6 *on the plan developed under paragraph (1), which*
7 *shall contain—*

8 (A) *a description of the current*
9 *functionality of the entry and exit data system,*
10 *including—*

11 (i) *a listing of ports of entry with bio-*
12 *metric entry data systems in use and*
13 *whether such screening systems are located*
14 *at primary or secondary inspection areas;*

15 (ii) *a listing of ports of entry with bio-*
16 *metric exit data systems in use;*

17 (iii) *a listing of databases and data*
18 *systems with which the automated entry*
19 *and exit data system are interoperable;*

20 (iv) *a description of—*

21 (I) *identified deficiencies con-*
22 *cerning the accuracy or integrity of the*
23 *information contained in the entry*
24 *and exit data system;*

1 (II) *identified deficiencies con-*
2 *cerning technology associated with*
3 *processing individuals through the sys-*
4 *tem; and*

5 (III) *programs or policies*
6 *planned or implemented to correct*
7 *problems identified in subclause (I) or*
8 *(II); and*

9 (v) *an assessment of the effectiveness of*
10 *the entry and exit data system in fulfilling*
11 *its intended purposes, including preventing*
12 *terrorists from entering the United States;*

13 (B) *a description of factors relevant to the*
14 *accelerated implementation of the biometric*
15 *entry and exit system, including—*

16 (i) *the earliest date on which the Sec-*
17 *retary estimates that full implementation of*
18 *the biometric entry and exit data system*
19 *can be completed;*

20 (ii) *the actions the Secretary will take*
21 *to accelerate the full implementation of the*
22 *biometric entry and exit data system at all*
23 *ports of entry through which all aliens must*
24 *pass that are legally required to do so; and*

1 (iii) the resources and authorities re-
2 quired to enable the Secretary to meet the
3 implementation date described in clause (i);

4 (C) a description of any improvements
5 needed in the information technology employed
6 for the entry and exit data system; and

7 (D) a description of plans for improved or
8 added interoperability with any other databases
9 or data systems.

10 (c) *INTEGRATION REQUIREMENT.*—Not later than 2
11 years after the date of the enactment of this Act, the Sec-
12 retary of Homeland Security shall integrate the biometric
13 entry and exit data system with all databases and data sys-
14 tems maintained by U.S. Citizenship and Immigration
15 Services that process or contain information on aliens.

16 (d) *MAINTAINING ACCURACY AND INTEGRITY OF*
17 *ENTRY AND EXIT DATA SYSTEM.*—

18 (1) *IN GENERAL.*—The Secretary of Homeland
19 Security, in consultation with other appropriate
20 agencies, shall establish rules, guidelines, policies, and
21 operating and auditing procedures for collecting, re-
22 moving, and updating data maintained in, and add-
23 ing information to, the entry and exit data system,
24 and databases and data systems linked to the entry

1 *and exit data system, that ensure the accuracy and*
2 *integrity of the data.*

3 (2) *REQUIREMENTS.*—*The rules, guidelines, poli-*
4 *cies, and procedures established under paragraph (1)*
5 *shall—*

6 (A) *incorporate a simple and timely method*
7 *for—*

8 (i) *correcting errors; and*

9 (ii) *clarifying information known to*
10 *cause false hits or misidentification errors;*
11 *and*

12 (B) *include procedures for individuals to*
13 *seek corrections of data contained in the data*
14 *systems.*

15 (e) *EXPEDITING REGISTERED TRAVELERS ACROSS*
16 *INTERNATIONAL BORDERS.*—

17 (1) *FINDINGS.*—*Consistent with the report of the*
18 *National Commission on Terrorist Attacks Upon the*
19 *United States, the Congress finds that—*

20 (A) *expediting the travel of previously*
21 *screened and known travelers across the borders*
22 *of the United States should be a high priority;*
23 *and*

24 (B) *the process of expediting known trav-*
25 *elers across the border can permit inspectors to*

1 *better focus on identifying terrorists attempting*
2 *to enter the United States.*

3 (2) *DEFINITION.*—*For purposes of this section,*
4 *the term “registered traveler program” means any*
5 *program designed to expedite the travel of previously*
6 *screened and known travelers across the borders of the*
7 *United States.*

8 (3) *REGISTERED TRAVEL PLAN.*—

9 (A) *IN GENERAL.*—*As soon as is prac-*
10 *ticable, the Secretary of Homeland Security shall*
11 *develop and implement a plan to expedite the*
12 *processing of registered travelers who enter and*
13 *exit the United States through a single registered*
14 *traveler program.*

15 (B) *INTEGRATION.*—*The registered traveler*
16 *program developed under this paragraph shall be*
17 *integrated into the automated biometric entry*
18 *and exit data system described in this section.*

19 (C) *REVIEW AND EVALUATION.*—*In devel-*
20 *oping the program under this paragraph, the*
21 *Secretary of Homeland Security shall—*

22 (i) *review existing programs or pilot*
23 *projects designed to expedite the travel of*
24 *registered travelers across the borders of the*
25 *United States;*

1 (ii) evaluate the effectiveness of the
2 programs described in clause (i), the costs
3 associated with such programs, and the
4 costs to travelers to join such programs; and
5 (iii) increase research and development
6 efforts to accelerate the development and im-
7 plementation of a single registered traveler
8 program.

9 (4) *REPORT.*—Not later than 1 year after the
10 date of the enactment of this Act, the Secretary of
11 Homeland Security shall submit to the Congress a re-
12 port describing the Department of Homeland Secu-
13 rity’s progress on the development and implementa-
14 tion of the plan required by this subsection.

15 (f) *INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING*
16 *SYSTEM.*—With respect to the biometric entry and exit data
17 system referred to in subsections (a) and (b), such system
18 shall accomplish the following:

19 (1) *Ensure that the system’s tracking capabilities*
20 *encompass data related to all immigration benefits*
21 *processing, including visa applications with the De-*
22 *partment of State, immigration related filings with*
23 *the Department of Labor, cases pending before the Ex-*
24 *ecutive Office for Immigration review, and matters*

1 *pending or under investigation before the Department*
2 *of Homeland Security.*

3 (2) *Utilize a biometric based identity number*
4 *tied to an applicant's biometric algorithm established*
5 *under the entry and exit data system to track all im-*
6 *migration related matters concerning the applicant.*

7 (3) *Provide that all information about an appli-*
8 *cant's immigration related history, including entry*
9 *and exit history, can be queried through electronic*
10 *means. Database access and usage guidelines shall in-*
11 *clude stringent safeguards to prevent misuse of data.*

12 (4) *Provide real-time updates to the information*
13 *described in paragraph (3), including pertinent data*
14 *from all agencies referenced in paragraph (1).*

15 (5) *Limit access to the information described in*
16 *paragraph (4) (and any other database used for*
17 *tracking immigration related processing or entry and*
18 *exit) to personnel explicitly authorized to do so, and*
19 *ensure that any such access may be ascertained by*
20 *authorized persons by review of the person's access*
21 *authorization code or number.*

22 (6) *Provide continuing education in*
23 *counterterrorism techniques, tools, and methods for all*
24 *Federal personnel employed in the evaluation of im-*
25 *migration documents and immigration-related policy.*

1 (g) *ENTRY-EXIT SYSTEM GOALS.*—*The Department of*
2 *Homeland Security shall continue to implement the system*
3 *described in subsections (a) and (b) in such a manner that*
4 *it fulfills the following goals:*

5 (1) *Serves as a vital counterterrorism tool.*

6 (2) *Screens travelers efficiently and in a wel-*
7 *coming manner.*

8 (3) *Provides inspectors and related personnel*
9 *with adequate real-time information.*

10 (4) *Ensures flexibility of training and security*
11 *protocols to most effectively comply with security*
12 *mandates.*

13 (5) *Integrates relevant databases and plans for*
14 *database modifications to address volume increase*
15 *and database usage.*

16 (6) *Improves database search capacities by uti-*
17 *lizing language algorithms to detect alternate names.*

18 (h) *DEDICATED SPECIALISTS AND FRONT LINE PER-*
19 *SONNEL TRAINING.*—*In implementing the provisions of sub-*
20 *sections (f) and (g), the Department of Homeland Security*
21 *and the Department of State shall—*

22 (1) *develop cross-training programs that focus on*
23 *the scope and procedures of the entry and exit data*
24 *system;*

1 (2) *provide extensive community outreach and*
2 *education on the entry and exit data system's proce-*
3 *dures;*

4 (3) *provide clear and consistent eligibility guide-*
5 *lines for applicants in low-risk traveler programs;*
6 *and*

7 (4) *establish ongoing training modules on immi-*
8 *gration law to improve adjudications at our ports of*
9 *entry, consulates, and embassies.*

10 *(i) INFORMATION ACCURACY STANDARDS.—*

11 (1) *AUTHORIZED OFFICERS.—Any information*
12 *placed in the entry and exit data system shall be en-*
13 *tered by authorized officers in compliance with estab-*
14 *lished procedures that guarantee the identification of*
15 *the person placing the information.*

16 (2) *DATA COLLECTED FROM FOREIGN NATION-*
17 *ALS.—The Secretary of Homeland Security, the Sec-*
18 *retary of State, and the Attorney General, after con-*
19 *sultation with directors of the relevant intelligence*
20 *agencies, shall standardize the information and data*
21 *collected from foreign nationals as well as the proce-*
22 *dures utilized to collect such data to ensure that the*
23 *information is consistent and of value to officials ac-*
24 *cessing that data across multiple agencies.*

1 (j) *ACCESSIBILITY.*—*The Secretary of Homeland Secu-*
2 *rity, the Secretary of State, the Attorney General, and the*
3 *head of any other department or agency that possesses au-*
4 *thority to enter data related to the immigration status of*
5 *foreign nationals, including lawful permanent resident*
6 *aliens, or where such information could serve to impede*
7 *lawful admission of United States citizens to the United*
8 *States, shall each establish guidelines related to data entry*
9 *procedures. Such guidelines shall—*

10 (1) *strictly limit the agency personnel authorized*
11 *to enter data into the system;*

12 (2) *identify classes of information to be des-*
13 *ignated as temporary or permanent entries, with cor-*
14 *responding expiration dates for temporary entries;*
15 *and*

16 (3) *identify classes of prejudicial information re-*
17 *quiring additional authority of supervisory personnel*
18 *prior to entry.*

19 (k) *SYSTEM ADAPTABILITY.*—

20 (1) *IN GENERAL.*—*Each agency authorized to*
21 *enter data related to the immigration status of any*
22 *persons identified in subsection (f) shall develop and*
23 *implement system protocols to—*

24 (A) *correct erroneous data entries in a*
25 *timely and effective manner;*

1 (B) clarify information known to cause
2 false hits or misidentification errors; and

3 (C) update all relevant information that is
4 dispositive to the adjudicatory or admission
5 process.

6 (2) *CENTRALIZING AND STREAMLINING CORREC-*
7 *TION PROCESS.*—The President or agency director so
8 designated by the President shall establish a clearing-
9 house bureau as part of the Department of Homeland
10 Security to centralize and streamline the process
11 through which members of the public can seek correc-
12 tions to erroneous or inaccurate information related
13 to immigration status, or which otherwise impedes
14 lawful admission to the United States, contained in
15 agency databases. Such process shall include specific
16 time schedules for reviewing data correction requests,
17 rendering decisions on such requests, and imple-
18 menting appropriate corrective action in a timely
19 manner.

20 (l) *TRAINING.*—Agency personnel authorized to enter
21 data pursuant to subsection (i)(1) shall undergo extensive
22 training in immigration law and procedure.

23 (m) *IMPLEMENTATION AUDIT.*—The Secretary of the
24 Department of Homeland Security shall submit a report
25 to the Congress not later than 6 months after the date of

1 *the enactment of this Act. The report shall detail activities*
2 *undertaken to date to develop the biometric entry and exit*
3 *data system, areas in which the system currently does not*
4 *achieve the mandates set forth in this section, and the fund-*
5 *ing, infrastructure, technology and other factors needed to*
6 *complete the system, as well as a detailed time frame in*
7 *which the completion of the system will be achieved.*

8 (n) *REPORTS.—*

9 (1) *JOINT BIENNIAL REPORTS.—The Secretaries*
10 *of the Departments of State and Homeland Security*
11 *jointly shall report biennially to the Congress on the*
12 *following:*

13 (A) *Current infrastructure and staffing at*
14 *each port of entry and each consular post.*

15 (B) *The numbers of immigrant and non-*
16 *immigrant visas issued.*

17 (C) *the numbers of individuals subject to ex-*
18 *pedited removal at the ports of entry, as well as*
19 *within 100 miles of the United States border.*

20 (D) *The plan for enhanced database review*
21 *at entry.*

22 (E) *The number of suspected terrorists and*
23 *criminals intercepted utilizing the biometric*
24 *entry and exit data system.*

1 (F) *The funds spent in the preceding fiscal*
2 *year to achieve the mandates of this section.*

3 (G) *Areas in which they failed to achieve*
4 *these mandates, and the steps they are taking to*
5 *address these deficiencies.*

6 (2) *PORTS OF ENTRY.—For ports of entry, simi-*
7 *lar information shall be provided including the num-*
8 *ber of I-94s issued, immigrant visa admissions made,*
9 *and nonimmigrant admissions.*

10 (3) *STATUS REPORT ON COMPLIANCE WITH EN-*
11 *HANCED BORDER SECURITY AND VISA ENTRY REFORM*
12 *ACT.—Not later than 120 days after the date of the*
13 *enactment of this Act, the Secretary of Homeland Se-*
14 *curity and the Secretary of State, after consultation*
15 *with the Director of the National Institute of Stand-*
16 *ards and Technology and the Commission on Inter-*
17 *operable Data Sharing, shall issue a report address-*
18 *ing the following:*

19 (A) *The status of agency compliance with*
20 *the mandates set forth in section 202 of the En-*
21 *hanced Border Security and Visa Entry Reform*
22 *Act (8 U.S.C. 1722).*

23 (B) *The status of agency compliance with*
24 *section 201(c)(3) of such Act (8 U.S.C.*
25 *1721(c)(3)).*

1 (4) *STATUS REPORT ON COMPLIANCE WITH SEC-*
2 *TION.—Not later than 1 year after the date of the en-*
3 *actment of this Act, the Secretary of Homeland Secu-*
4 *rity, the Secretary of State, the Attorney General, and*
5 *the head of any other department or agency bound by*
6 *the mandates in this section, shall issue both indi-*
7 *vidual status reports and a joint status report detail-*
8 *ing compliance with each mandate contained in this*
9 *section.*

10 (o) *AUTHORIZATION OF APPROPRIATIONS.—There are*
11 *authorized to be appropriated to the Secretary of Homeland*
12 *Security, for each of the fiscal years 2005 through 2009,*
13 *such sums as may be necessary to carry out the provisions*
14 *of this section.*

15 **SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDI-**
16 **NATOR FOR COUNTERTERRORISM.**

17 (a) *DECLARATION OF UNITED STATES POLICY.—Con-*
18 *gress declares that it shall be the policy of the United States*
19 *to—*

20 (1) *make combating terrorist travel and those*
21 *who assist them a priority for the United States*
22 *counterterrorism policy; and*

23 (2) *ensure that the information relating to indi-*
24 *viduals who help facilitate terrorist travel by creating*
25 *false passports, visas, documents used to obtain such*

1 *travel documents, and other documents are fully*
2 *shared within the United States Government and, to*
3 *the extent possible, with and from foreign govern-*
4 *ments, in order to initiate United States and foreign*
5 *prosecutions of such individuals.*

6 *(b) AMENDMENT.—Section 1(e)(2) of the State Depart-*
7 *ment Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2))*
8 *is amended by adding at the end the following:*

9 *“(C) ADDITIONAL DUTIES RELATING TO*
10 *TERRORIST TRAVEL.—In addition to the prin-*
11 *cipal duties of the Coordinator described in sub-*
12 *paragraph (B), the Coordinator shall analyze*
13 *methods used by terrorists to travel internation-*
14 *ally, develop policies with respect to curtailing*
15 *terrorist travel, and coordinate such policies with*
16 *the appropriate bureaus and other entities of the*
17 *Department of State, other United States Gov-*
18 *ernment agencies, the Human Trafficking and*
19 *Smuggling Center, and foreign governments.”.*

20 **SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASS-**
21 **PORT SECURITY IN THE DEPARTMENT OF**
22 **STATE.**

23 *(a) ESTABLISHMENT.—There is established within the*
24 *Bureau of Diplomatic Security of the Department of State*

1 *an Office of Visa and Passport Security (in this section*
2 *referred to as the “Office”).*

3 (b) *HEAD OF OFFICE.—*

4 (1) *IN GENERAL.—Notwithstanding any other*
5 *provision of law, the head of the Office shall be an in-*
6 *dividual who shall have the rank and status of Dep-*
7 *uty Assistant Secretary of State for Diplomatic Secu-*
8 *rity (in this section referred to as the “Deputy Assist-*
9 *ant Secretary”).*

10 (2) *RECRUITMENT.—The Under Secretary of*
11 *State for Management shall chose the Deputy Assist-*
12 *ant Secretary from among individuals who are Diplo-*
13 *matic Security Agents.*

14 (3) *QUALIFICATIONS.—The Diplomatic Security*
15 *Agent chosen to serve as the Deputy Assistant Sec-*
16 *retary shall have expertise and experience in inves-*
17 *tigating and prosecuting visa and passport fraud.*

18 (c) *DUTIES.—*

19 (1) *PREPARATION OF STRATEGIC PLAN.—*

20 (A) *IN GENERAL.—The Deputy Assistant*
21 *Secretary, in coordination with the appropriate*
22 *officials of the Department of Homeland Secu-*
23 *rity, shall ensure the preparation of a strategic*
24 *plan to target and disrupt individuals and orga-*
25 *nizations at home and in foreign countries that*

1 are involved in the fraudulent production, dis-
2 tribution, use, or other similar activity—

3 (i) of a United States visa or United
4 States passport;

5 (ii) of documents intended to help
6 fraudulently procure a United States visa
7 or United States passport, or other docu-
8 ments intended to gain unlawful entry into
9 the United States; or

10 (iii) of passports and visas issued by
11 foreign countries intended to gain unlawful
12 entry into the United States.

13 (B) *EMPHASIS.*—Such plan shall—

14 (i) focus particular emphasis on indi-
15 viduals and organizations that may have
16 links to domestic terrorist organizations or
17 foreign terrorist organizations (as such term
18 is defined in Section 219 of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1189));

20 (ii) require the development of a stra-
21 tegic training course under the
22 Antiterrorism Assistance Training (ATA)
23 program of the Department of State (or any
24 successor or related program) under chapter
25 8 of part II of the Foreign Assistance Act

1 of 1961 (22 U.S.C. 2349aa et seq.) (or other
2 relevant provisions of law) to train partici-
3 pants in the identification of fraudulent
4 documents and the forensic detection of such
5 documents which may be used to obtain un-
6 lawful entry into the United States; and

7 (iii) determine the benefits and costs of
8 providing technical assistance to foreign
9 governments to ensure the security of pass-
10 ports, visas, and related documents and to
11 investigate, arrest, and prosecute individ-
12 uals who facilitate travel by the creation of
13 false passports and visas, documents to ob-
14 tain such passports and visas, and other
15 types of travel documents.

16 (2) *DUTIES OF OFFICE.*—The Office shall have
17 the following duties:

18 (A) *ANALYSIS OF METHODS.*—Analyze
19 methods used by terrorists to travel internation-
20 ally, particularly the use of false or altered trav-
21 el documents to illegally enter foreign countries
22 and the United States, and advise the Bureau of
23 Consular Affairs and the Secretary of Homeland
24 Security on recommended changes to the visa
25 issuance process that could combat such methods,

1 *including the introduction of new technologies*
2 *into such process.*

3 *(B) IDENTIFICATION OF INDIVIDUALS AND*
4 *DOCUMENTS.—Identify, in cooperation with the*
5 *Human Trafficking and Smuggling Center, indi-*
6 *viduals who facilitate travel by the creation of*
7 *false passports and visas, documents used to ob-*
8 *tain such passports and visas, and other types of*
9 *travel documents, and ensure that the appro-*
10 *priate agency is notified for further investigation*
11 *and prosecution or, in the case of such individ-*
12 *uals abroad for which no further investigation or*
13 *prosecution is initiated, ensure that all appro-*
14 *priate information is shared with foreign govern-*
15 *ments in order to facilitate investigation, arrest,*
16 *and prosecution of such individuals.*

17 *(C) IDENTIFICATION OF FOREIGN COUN-*
18 *TRIES NEEDING ASSISTANCE.—Identify foreign*
19 *countries that need technical assistance, such as*
20 *law reform, administrative reform, prosecutorial*
21 *training, or assistance to police and other inves-*
22 *tigative services, to ensure passport, visa, and re-*
23 *lated document security and to investigate, ar-*
24 *rest, and prosecute individuals who facilitate*
25 *travel by the creation of false passports and*

1 *visas, documents used to obtain such passports*
2 *and visas, and other types of travel documents.*

3 (D) *INSPECTION OF APPLICATIONS.*—*Ran-*
4 *domly inspect visa and passport applications for*
5 *accuracy, efficiency, and fraud, especially at*
6 *high terrorist threat posts, in order to prevent a*
7 *recurrence of the issuance of visas to those who*
8 *submit incomplete, fraudulent, or otherwise ir-*
9 *regular or incomplete applications.*

10 (3) *REPORT.*—*Not later than 90 days after the*
11 *date of the enactment of this Act, the Deputy Assist-*
12 *ant Secretary shall submit to Congress a report*
13 *containing—*

14 (A) *a description of the strategic plan pre-*
15 *pared under paragraph (1); and*

16 (B) *an evaluation of the feasibility of estab-*
17 *lishing civil service positions in field offices of*
18 *the Bureau of Diplomatic Security to investigate*
19 *visa and passport fraud, including an evaluation*
20 *of whether to allow diplomatic security agents to*
21 *convert to civil service officers to fill such posi-*
22 *tions.*

1 ***Subtitle D—Terrorist Travel***

2 ***SEC. 3101. INFORMATION SHARING AND COORDINATION.***

3 *The Secretary of Homeland Security shall establish a*
4 *mechanism to—*

5 (1) *ensure the coordination and dissemination of*
6 *terrorist travel intelligence and operational informa-*
7 *tion among the appropriate agencies within the De-*
8 *partment of Homeland Security, including the Bu-*
9 *reau of Customs and Border Protection, the Bureau*
10 *of Immigration and Customs Enforcement, the Bu-*
11 *reau of Citizenship and Immigration Services, the*
12 *Transportation Security Administration, the Coast*
13 *Guard, and other agencies as directed by the Sec-*
14 *retary; and*

15 (2) *ensure the sharing of terrorist travel intel-*
16 *ligence and operational information with the Depart-*
17 *ment of State, the National Counterterrorism Center,*
18 *and other appropriate Federal agencies.*

19 ***SEC. 3102. TERRORIST TRAVEL PROGRAM.***

20 *The Secretary of Homeland Security, in consultation*
21 *with the Director of the National Counterterrorism Center,*
22 *shall establish a program to—*

23 (1) *analyze and utilize information and intel-*
24 *ligence regarding terrorist travel tactics, patterns,*
25 *trends, and practices; and*

1 (2) disseminate that information to all front-line
2 Department of Homeland Security personnel who are
3 at ports of entry or between ports of entry, to immi-
4 gration benefits offices, and, in coordination with the
5 Secretary of State, to appropriate individuals at
6 United States embassies and consulates.

7 **SEC. 3103. TRAINING PROGRAM.**

8 (a) REVIEW, EVALUATION, AND REVISION OF EXIST-
9 ING TRAINING PROGRAMS.—The Secretary of Homeland Se-
10 curity shall—

11 (1) review and evaluate the training currently
12 provided to Department of Homeland Security per-
13 sonnel and, in consultation with the Secretary of
14 State, relevant Department of State personnel with
15 respect to travel and identity documents, and tech-
16 niques, patterns, and trends associated with terrorist
17 travel; and

18 (2) develop and implement a revised training
19 program for border, immigration, and consular offi-
20 cials in order to teach such officials how to effectively
21 detect, intercept, and disrupt terrorist travel.

22 (b) REQUIRED TOPICS OF REVISED PROGRAMS.—The
23 training program developed under subsection (a)(2) shall
24 include training in the following areas:

1 (1) *Methods for identifying fraudulent and genuine travel documents.*

3 (2) *Methods for detecting terrorist indicators on travel documents and other relevant identity documents.*

6 (3) *Recognizing travel patterns, tactics, and behaviors exhibited by terrorists.*

8 (4) *Effectively utilizing information contained in databases and data systems available to the Department of Homeland Security.*

11 (5) *Other topics determined to be appropriate by the Secretary of Homeland Security in consultation with the Secretary of State or the National Intelligence Director.*

15 **SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.**

17 (a) *PLAN REQUIRED.*—*Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the Congress a plan to ensure that the Department of Homeland Security and the Department of State acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.*

1 (b) *INTEROPERABILITY REQUIREMENT.*—*To the extent*
2 *possible, technologies to be acquired and deployed under the*
3 *plan shall be compatible with current systems used by the*
4 *Department of Homeland Security to detect and identify*
5 *fraudulent documents and genuine documents.*

6 (c) *PASSPORT SCREENING.*—*The plan shall address*
7 *the feasibility of using such technologies to screen passports*
8 *submitted for identification purposes to a United States*
9 *consular, border, or immigration official.*

10 ***Subtitle E—Maritime Security***
11 ***Requirements***

12 ***SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-***
13 ***TIME SECURITY REQUIREMENTS.***

14 (a) *NATIONAL MARITIME TRANSPORTATION SECURITY*
15 *PLAN.*—*Section 70103(a) of the 46, United States Code, is*
16 *amended by striking “The Secretary” and inserting “Not*
17 *later than December 31, 2004, the Secretary”.*

18 (b) *FACILITY AND VESSEL VULNERABILITY ASSESS-*
19 *MENTS.*—*Section 70102(b)(1) of the 46, United States Code,*
20 *is amended by striking “, the Secretary” and inserting*
21 *“and by not later than December 31, 2004, the Secretary”.*

22 (c) *TRANSPORTATION SECURITY CARD REGULA-*
23 *TIONS.*—*Section 70105(a) of the 46, United States Code, is*
24 *amended by striking “The Secretary” and inserting “Not*
25 *later than December 31, 2004, the Secretary”.*

1 ***Subtitle F—Treatment of Aliens***
 2 ***Who Commit Acts of Torture,***
 3 ***Extrajudicial Killings, or Other***
 4 ***Atrocities Abroad***

5 ***SEC. 3121. INADMISSIBILITY AND DEPORTABILITY OF***
 6 ***ALIENS WHO HAVE COMMITTED ACTS OF TOR-***
 7 ***TURE OR EXTRAJUDICIAL KILLINGS ABROAD.***

8 (a) *INADMISSIBILITY.*—Section 212(a)(3)(E) of the
 9 *Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E))*
 10 *is amended—*

11 (1) *in clause (ii), by striking “has engaged in*
 12 *conduct that is defined as genocide for purposes of the*
 13 *International Convention on the Prevention and Pun-*
 14 *ishment of Genocide is inadmissible” and inserting*
 15 *“ordered, incited, assisted, or otherwise participated*
 16 *in conduct outside the United States that would, if*
 17 *committed in the United States or by a United States*
 18 *national, be genocide, as defined in section 1091(a) of*
 19 *title 18, United States Code, is inadmissible”;*

20 (2) *by adding at the end the following:*

21 “(iii) *COMMISSION OF ACTS OF TOR-*
 22 *TURE OR EXTRAJUDICIAL KILLINGS.*—*Any*
 23 *alien who, outside the United States, has*
 24 *committed, ordered, incited, assisted, or oth-*
 25 *erwise participated in the commission of—*

1 “(I) any act of torture, as defined
2 in section 2340 of title 18, United
3 States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of the
7 Torture Victim Protection Act of 1991
8 (28 U.S.C. 1350 note);

9 is inadmissible.”; and

10 (3) in the subparagraph heading, by striking
11 “PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE”
12 and inserting “PARTICIPANTS IN NAZI PERSECUTION,
13 GENOCIDE, OR THE COMMISSION OF ANY ACT OF TOR-
14 TURE OR EXTRAJUDICIAL KILLING”.

15 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
16 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

17 (1) by striking “clause (i) or (ii)” and inserting
18 “clause (i), (ii), or (iii)”; and

19 (2) in the subparagraph heading, by striking
20 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
21 GENOCIDE” and inserting “PARTICIPATED IN NAZI
22 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
23 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to offenses committed before, on, or after*
 3 *the date of the enactment of this Act.*

4 **SEC. 3122. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
 5 **EIGN GOVERNMENT OFFICIALS WHO HAVE**
 6 **COMMITTED PARTICULARLY SEVERE VIOLA-**
 7 **TIONS OF RELIGIOUS FREEDOM.**

8 (a) *GROUND OF INADMISSIBILITY.*—*Section*
 9 *212(a)(2)(G) of the Immigration and Nationality Act (8*
 10 *U.S.C. 1182(a)(2)(G)) is amended to read as follows:*

11 “(G) *FOREIGN GOVERNMENT OFFICIALS*
 12 *WHO HAVE COMMITTED PARTICULARLY SEVERE*
 13 *VIOLATIONS OF RELIGIOUS FREEDOM.*—*Any*
 14 *alien who, while serving as a foreign government*
 15 *official, was responsible for or directly carried*
 16 *out, at any time, particularly severe violations of*
 17 *religious freedom, as defined in section 3 of the*
 18 *International Religious Freedom Act of 1998 (22*
 19 *U.S.C. 6402), is inadmissible.”.*

20 (b) *GROUND OF DEPORTABILITY.*—*Section 237(a)(4)*
 21 *of the Immigration and Nationality Act (8 U.S.C.*
 22 *1227(a)(4)) is amended by adding at the end the following:*

23 “(E) *PARTICIPATED IN THE COMMISSION OF*
 24 *SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.*—

1 *Any alien described in section 212(a)(2)(G) is*
2 *deportable.”.*

3 **SEC. 3123. WAIVER OF INADMISSIBILITY.**

4 *Section 212(d)(3) of the Immigration and Nationality*
5 *Act (8 U.S.C. 1182(d)(3)) is amended—*

6 (1) *in subparagraph (A), by striking “and 3(E)”*
7 *and inserting “and clauses (i) and (ii) of paragraph*
8 *(3)(E)”;* *and*

9 (2) *in subparagraph (B), by striking “and 3(E)”*
10 *and inserting “and clauses (i) and (ii) of paragraph*
11 *(3)(E)”.*

12 **SEC. 3124. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
13 **WHO HAVE COMMITTED ACTS OF TORTURE,**
14 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
15 **LATIONS OF RELIGIOUS FREEDOM.**

16 *Section 101(f) of the Immigration and Nationality Act*
17 *(8 U.S.C. 1101(f)) is amended—*

18 (1) *by striking the period at the end of para-*
19 *graph (8) and inserting “; and”;* *and*

20 (2) *by adding at the end the following:*

21 “(9) *one who at any time has engaged in con-*
22 *duct described in section 212(a)(3)(E) (relating to as-*
23 *sistance in Nazi persecution, participation in geno-*
24 *cide, or commission of acts of torture or extrajudicial*

1 *killings) or 212(a)(2)(G) (relating to severe violations*
2 *of religious freedom).’.*

3 **SEC. 3125. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
4 **VESTIGATIONS.**

5 *(a) AMENDMENT OF THE IMMIGRATION AND NATION-*
6 *ALITY ACT.—Section 103 of the Immigration and Nation-*
7 *ality Act (8 U.S.C. 1103) is amended by adding at the end*
8 *the following:*

9 *“(h)(1) The Attorney General shall establish within the*
10 *Criminal Division of the Department of Justice an Office*
11 *of Special Investigations with the authority to detect and*
12 *investigate, and, where appropriate, to take legal action to*
13 *denaturalize any alien described in section 212(a)(3)(E).*

14 *“(2) The Attorney General shall consult with the Sec-*
15 *retary of the Department of Homeland Security in making*
16 *determinations concerning the criminal prosecution or ex-*
17 *tradition of aliens described in section 212(a)(3)(E).*

18 *“(3) In determining the appropriate legal action to*
19 *take against an alien described in section 212(a)(3)(E),*
20 *consideration shall be given to—*

21 *“(A) the availability of criminal prosecution*
22 *under the laws of the United States for any conduct*
23 *that may form the basis for removal and*
24 *denaturalization; or*

1 “(B) *the availability of extradition of the alien*
2 *to a foreign jurisdiction that is prepared to undertake*
3 *a prosecution for such conduct.*”.

4 **(b) AUTHORIZATION OF APPROPRIATIONS.—**

5 **(1) IN GENERAL.—***There are authorized to be ap-*
6 *propriated to the Department of Justice such sums as*
7 *may be necessary to carry out the additional duties*
8 *established under section 103(h) of the Immigration*
9 *and Nationality Act (as added by this subtitle) in*
10 *order to ensure that the Office of Special Investiga-*
11 *tions fulfills its continuing obligations regarding Nazi*
12 *war criminals.*

13 **(2) AVAILABILITY OF FUNDS.—***Amounts appro-*
14 *priated pursuant to paragraph (1) are authorized to*
15 *remain available until expended.*

16 **SEC. 3126. REPORT ON IMPLEMENTATION.**

17 *Not later than 180 days after the date of enactment*
18 *of this Act, the Attorney General, in consultation with the*
19 *Secretary of Homeland Security, shall submit to the Com-*
20 *mittees on the Judiciary of the Senate and the House of*
21 *Representatives a report on implementation of this subtitle*
22 *that includes a description of—*

23 **(1)** *the procedures used to refer matters to the*
24 *Office of Special Investigations and other components*
25 *within the Department of Justice and the Department*

1 *for*nia, more particularly described as follows: Begin-
2 ning at the Southwest corner of Fractional Section 7,
3 T19S, R2W; said Point-of-Beginning being on the
4 United States/Mexico International Boundary Line
5 and also being a point of mean sea level of the Pacific
6 Ocean (at Borderfield State Park); thence, N
7 02°31'00" W, a distance of approximately 800.00 feet
8 to a point. Thence, N 84°44'08" E, a distance of ap-
9 proximately 1,845.12 feet to a point. Said point being
10 on the Section line common to Section 7 and 8, T19S,
11 R2W. Thence, S 01°05'10" W, along said Section
12 line, a distance of approximately 270.62 feet to a
13 point. Thence, S 89°49'43" E, a distance of approxi-
14 mately 1,356.50 feet to a point. Thence, N 45°34'58"
15 E, a distance of approximately 1,901.75 feet to a
16 point. Said point being on the Section line common
17 to Sections 5 and 8, T19S, R2W. Thence, N
18 00°00'00" E, a distance of approximately 300.00 feet
19 to a point. Thence, S 89°54'53" E, a distance of ap-
20 proximately 1,322.05 feet to a point. Thence, S
21 00°25'27" W, a distance of approximately 300.00 feet
22 to a point. Said point being on the Section line com-
23 mon to Sections 5 and 8, T19S, R2W. Thence, S
24 89°37'09" E, along the Section line common to Sec-
25 tion 4, 5, 8, and 9, T19S, R2W, a distance of ap-

1 *proximately 5,361.32 feet to a point. Thence, N*
2 *00°12'59" E, a distance of approximately 400.00 feet*
3 *to a point. Thence, N 90°00'00" E, a distance of ap-*
4 *proximately 1,349.81 feet to a point. Said point being*
5 *on the Section line common to Sections 3 and 4,*
6 *T19S, R2W. Thence, S 00°30'02" W, a distance of*
7 *approximately 410.37 feet to a point. Said point*
8 *being the Section corner common to Sections 3, 4, 9,*
9 *and 10, T19S, R2W. Thence, S 89°36'11" E, along*
10 *the Section line common to Sections 2, 3, 10, and 11,*
11 *T19S, R2W, a distance of approximately 6,129.36 feet*
12 *to a point. Thence, along the arc of a curve to the left,*
13 *having a radius of 518.88 feet, and a distance of*
14 *204.96 feet to a point. Thence, S 89°59'41" E, a dis-*
15 *tance of approximately 258.66 feet to a point. Thence,*
16 *S 00°00'00" E, a distance of approximately 111.74*
17 *feet to a point. Said point being within the NW ¹/₄*
18 *of fractional section 11, T19S, R2W, on the United*
19 *States/Mexico International Boundary. Thence, S*
20 *84°41'20" W, along said United States/Mexico Inter-*
21 *national Boundary, a distance of approximately*
22 *19,210.48 feet to the Point-of-Beginning. Said tract of*
23 *land containing an area of 396.61 acre, more or less.*

24 (2) *ZONE EAST.—A tract of land situated within*
25 *Section 32 and 33, Township 18 South, Range 1 East*

1 of the San Bernadino Meridian, County of San
2 Diego, State of California, and being described as fol-
3 lows: Beginning at the $\frac{1}{4}$ Section line of Section 32,
4 T18S, R1E. Said Point-of-Beginning being on the
5 United States/Mexico International Boundary Line
6 and having a coordinate value of $X = 6360877.25$ Y
7 $= 1781730.88$. Thence, $N 00^{\circ}32'02'' W$, a distance of
8 approximately 163.56 feet to a point. Thence, N
9 $78^{\circ}33'17'' E$, a distance of approximately 1,388.23
10 feet to a point. Thence, $N 84^{\circ}37'31'' E$, a distance of
11 approximately 1,340.20 feet to a point. Thence, N
12 $75^{\circ}00'00'' E$, a distance of approximately 1,000.00
13 feet to a point. Thence, $S 88^{\circ}06'07'' E$, a distance of
14 approximately 1,806.81 feet to a point. Thence, N
15 $80^{\circ}00'00'' E$, a distance of approximately 1,050.00
16 feet to a point. Thence, $N 87^{\circ}00'00'' E$, a distance of
17 approximately 1,100.00 feet to a point. Thence, S
18 $00^{\circ}00'00'' W$, a distance of approximately 300.00 feet
19 to a point. Said point being on the United States/
20 Mexico International boundary. Thence, $S 84^{\circ}44'09''$
21 W , along said boundary, a distance of approximately
22 7,629.63 to the Point-of-Beginning. Said tract of land
23 having an area of approximately 56.60 acres more or
24 less.

1 (c) *EXEMPTION FROM CERTAIN REQUIREMENTS.*—The
2 provisions referred to in subsection (a) areas as follows:

3 (1) *Noise Control Act of 1972 (42 U.S.C. 4901*
4 *et seq.), as amended by Quiet Communities of 1978*
5 *(P.L. 95–609).*

6 (2) *Clean Air Act and amendments of 1990 (42*
7 *U.S.C. 7401–7671q).*

8 (3) *Clean Water Act of 1977 (33 U.S.C. 1342).*

9 (4) *Executive Order No. 11988 (Floodplain Man-*
10 *agement), as amended by Executive Order No. 12608.*

11 (5) *Executive Order No. 11990 (Protection of*
12 *Wetlands), as amended by Executive Order No.*
13 *12608.*

14 (6) *Coastal Zone Management Act of 1972 (16*
15 *U.S.C. 1456(c)).*

16 (7) *Resource Conservation and Recovery Act of*
17 *1976 (42 U.S.C. 6901–6992k) as amended by Haz-*
18 *ardous and Solid Waste Amendments of 1984 (P.L.*
19 *98–616; 98 Stat. 3221).*

20 (8) *Comprehensive, Environmental Response,*
21 *Compensation, Liability Act of 1980 (42 U.S.C.*
22 *9601–9675), as amended by Emergency Planning and*
23 *Community Right-To-Know-Act of 1986 (42 U.S.C.*
24 *11001 et seq.).*

1 (9) *Farmland Protection Policy Act of 1981* (7
2 *U.S.C. 4201 et seq.*).

3 (10) *Endangered Species Act of 1973, as amend-*
4 *ed* (16 *U.S.C. 1531–1544*).

5 (11) *Migratory Bird Treaty Act of 1918* (16
6 *U.S.C. 703–712*).

7 (12) *Bald and Golden Eagle Act of 1940, as*
8 *amended* (16 *U.S.C. 688–688d*).

9 (13) *National Historic Preservation Act of 1966*
10 *(16 U.S.C. 470 et seq.)*, as amended *Executive Order*
11 *No. 13007—Sacred Sites Presidential Memorandum*
12 *regarding government to Government Relations* (April
13 29, 1994).

14 (14) *Native American Graves Protection and Re-*
15 *patriation Act* (43 *CFR Part 10*).

16 (15) *Archeological Resources Protection Act of*
17 *1979* (16 *U.S.C. 470aa–470ii*).

18 (16) *Executive Order No. 12898 (Federal Actions*
19 *to Address Environmental Justice in Minority Popu-*
20 *lations and Low-Income Populations)* of 1994.

1 **TITLE IV—INTERNATIONAL CO-**
2 **OPERATION AND COORDINA-**
3 **TION**

4 **Subtitle A—Attack Terrorists and**
5 **Their Organizations**

6 **CHAPTER 1—PROVISIONS RELATING TO**
7 **TERRORIST SANCTUARIES**

8 **SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-**
9 **TUARIES.**

10 *It is the sense of Congress that it should be the policy*
11 *of the United States—*

12 *(1) to identify and prioritize foreign countries*
13 *that are or that could be used as terrorist sanctuaries;*

14 *(2) to assess current United States resources*
15 *being provided to such foreign countries;*

16 *(3) to develop and implement a coordinated*
17 *strategy to prevent terrorists from using such foreign*
18 *countries as sanctuaries; and*

19 *(4) to work in bilateral and multilateral fora to*
20 *prevent foreign countries from being used as terrorist*
21 *sanctuaries.*

22 **SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

23 *(a) INITIAL REPORT.—*

24 *(1) IN GENERAL.—Not later than 90 days after*
25 *the date of the enactment of this Act, the President*

1 shall transmit to Congress a report that describes a
2 strategy for addressing and, where possible, elimi-
3 nating terrorist sanctuaries.

4 (2) *CONTENT.*—The report required under this
5 subsection shall include the following:

6 (A) A list that prioritizes each actual and
7 potential terrorist sanctuary and a description
8 of activities in the actual and potential sanc-
9 tuaries.

10 (B) An outline of strategies for preventing
11 the use of, disrupting, or ending the use of such
12 sanctuaries.

13 (C) A detailed description of efforts, includ-
14 ing an assessment of successes and setbacks, by
15 the United States to work with other countries in
16 bilateral and multilateral fora to address or
17 eliminate each actual or potential terrorist sanc-
18 tuary and disrupt or eliminate the security pro-
19 vided to terrorists by each such sanctuary.

20 (D) A description of long-term goals and
21 actions designed to reduce the conditions that
22 allow the formation of terrorist sanctuaries.

23 (b) *SUBSEQUENT REPORTS.*—

24 (1) *REQUIREMENT OF REPORTS.*—Section
25 140(a)(1) of the *Foreign Relations Authorization Act*,

1 *Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1))*
2 *is amended—*

3 (A) *by striking “(1)” and inserting*
4 *“(1)(A)”;*

5 (B) *by redesignating subparagraphs (A)*
6 *through (C) as clauses (i) through (iii), respec-*
7 *tively;*

8 (C) *in subparagraph (A)(iii) (as redesign-*
9 *ated), by adding “and” at the end; and*

10 (D) *by adding at the end the following:*

11 *“(B) detailed assessments with respect to each*
12 *foreign country whose territory is being used or could*
13 *potentially be used as a sanctuary for terrorists or*
14 *terrorist organizations;”.*

15 (2) *PROVISIONS TO BE INCLUDED IN REPORT.—*

16 *Section 140(b) of such Act (22 U.S.C. 2656f(b)) is*
17 *amended—*

18 (A) *in paragraph (1)—*

19 (i) *in the matter preceding subpara-*
20 *graph (A), by striking “subsection (a)(1)”*
21 *and inserting “subsection (a)(1)(A)”;* and

22 (ii) *by striking “and” at the end;*

23 (B) *by redesignating paragraph (2) as*
24 *paragraph (3);*

1 (C) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) with respect to subsection (a)(1)(B)—

4 “(A) the extent of knowledge by the govern-
5 ment of the country with respect to terrorist ac-
6 tivities in the territory of the country; and

7 “(B) the actions by the country—

8 “(i) to eliminate each terrorist sanc-
9 tuary in the territory of the country;

10 “(ii) to cooperate with United States
11 antiterrorism efforts; and

12 “(iii) to prevent the proliferation of
13 and trafficking in weapons of mass destruc-
14 tion in and through the territory of the
15 country;”;

16 (D) by striking the period at the end of
17 paragraph (3) (as redesignated) and inserting a
18 semicolon; and

19 (E) by inserting after paragraph (3) (as re-
20 designated) the following:

21 “(4) a strategy for addressing and, where pos-
22 sible, eliminating terrorist sanctuaries that shall
23 include—

24 “(A) a description of actual and potential
25 terrorist sanctuaries, together with an assessment

1 *of the priorities of addressing and eliminating*
2 *such sanctuaries;*

3 “(B) *an outline of strategies for disrupting*
4 *or eliminating the security provided to terrorists*
5 *by such sanctuaries;*

6 “(C) *a description of efforts by the United*
7 *States to work with other countries in bilateral*
8 *and multilateral fora to address or eliminate ac-*
9 *tual or potential terrorist sanctuaries and dis-*
10 *rupt or eliminate the security provided to terror-*
11 *ists by such sanctuaries; and*

12 “(D) *a description of long-term goals and*
13 *actions designed to reduce the conditions that*
14 *allow the formation of terrorist sanctuaries;*

15 “(5) *an update of the information contained in*
16 *the report required to be transmitted to Congress pur-*
17 *suant to section 4002(a)(2) of the 9/11 Recommenda-*
18 *tions Implementation Act;*

19 “(6) *to the extent practicable, complete statistical*
20 *information on the number of individuals, including*
21 *United States citizens and dual nationals, killed, in-*
22 *jured, or kidnapped by each terrorist group during*
23 *the preceding calendar year; and*

24 “(7) *an analysis, as appropriate, relating to*
25 *trends in international terrorism, including changes*

1 *in technology used, methods and targets of attacks, de-*
2 *mographic information on terrorists, and other ap-*
3 *propriate information.”.*

4 (3) *DEFINITIONS.—Section 140(d) of such Act*
5 *(22 U.S.C. 2656f(d)) is amended—*

6 (A) *in paragraph (2), by striking “and” at*
7 *the end;*

8 (B) *in paragraph (3), by striking the period*
9 *at the end and inserting a semicolon; and*

10 (C) *by adding at the end the following:*

11 “(4) *the term ‘territory’ and ‘territory of the*
12 *country’ means the land, waters, and airspace of the*
13 *country; and*

14 “(5) *the term ‘terrorist sanctuary’ or ‘sanctuary’*
15 *means an area in the territory of a country that is*
16 *used by a terrorist group with the express or implied*
17 *consent of the government of the country—*

18 (A) *to carry out terrorist activities, includ-*
19 *ing training, fundraising, financing, recruit-*
20 *ment, and education activities; or*

21 (B) *to provide transit through the coun-*
22 *try.”.*

23 (4) *EFFECTIVE DATE.—The amendments made*
24 *by paragraphs (1), (2), and (3) apply with respect to*
25 *the report required to be transmitted under section*

1 *President submits to the Speaker of the House of Represent-*
2 *atives and the chairman of the Committee on Banking,*
3 *Housing, and Urban Affairs and the chairman of the Com-*
4 *mittee on Foreign Relations of the Senate before the pro-*
5 *posed rescission would take effect a report certifying that*
6 *the government of the country concerned —*

7 “(A) *is taking concrete, verifiable steps to elimi-*
8 *nate each terrorist sanctuary in the territory of the*
9 *country;*

10 “(B) *is cooperating with United States*
11 *antiterrorism efforts; and*

12 “(C) *is taking all appropriate actions to prevent*
13 *the proliferation of and trafficking in weapons of*
14 *mass destruction in and through the territory of the*
15 *country.”; and*

16 (5) *by inserting after paragraph (6) (as redesign-*
17 *ated) the following:*

18 “(7) *In this subsection—*

19 “(A) *the term ‘territory of the country’ means*
20 *the land, waters, and airspace of the country; and*

21 “(B) *the term ‘terrorist sanctuary’ or ‘sanctuary’*
22 *means an area in the territory of a country that is*
23 *used by a terrorist group with the express or implied*
24 *consent of the government of the country—*

1 “(i) to carry out terrorist activities, includ-
2 ing training, fundraising, financing, recruit-
3 ment, and education activities; or

4 “(ii) to provide transit through the coun-
5 try.”.

6 (b) *IMPLEMENTATION.*—The President shall implement
7 the amendments made by subsection (a) by exercising the
8 authorities the President has under the International Emer-
9 gency Economic Powers Act (50 U.S.C. 1701 et seq.).

10 **CHAPTER 2—OTHER PROVISIONS**

11 **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS**

12 **CONTROL AND NONPROLIFERATION ADVI-** 13 **SORY BOARD.**

14 (a) *REQUIREMENT.*—Not later than December 31,
15 2004, the Secretary of State shall appoint individuals to
16 the Arms Control and Nonproliferation Advisory Board to
17 fill all vacancies in the membership of the Board that exist
18 on the date of the enactment of this Act.

19 (b) *CONSULTATION.*—Appointments to the Board
20 under subsection (a) shall be made in consultation with the
21 Committee on International Relations of the House of Rep-
22 resentatives and the Committee on Foreign Relations of the
23 Senate.

1 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**
2 **LIFERATION OF WEAPONS OF MASS DESTRUC-**
3 **TION AND CONTROL OF STRATEGIC WEAP-**
4 **ONS.**

5 (a) *REVIEW.*—

6 (1) *IN GENERAL.*—*The Undersecretary of State*
7 *for Arms Control and International Security shall in-*
8 *struct the Arms Control and Nonproliferation Advi-*
9 *sory Board (in this section referred to as the “Advi-*
10 *sory Board”)* to carry out a review of existing policies
11 *of the United States relating to the proliferation of*
12 *weapons of mass destruction and the control of stra-*
13 *tegic weapons.*

14 (2) *COMPONENTS.*—*The review required under*
15 *this subsection shall contain at a minimum the fol-*
16 *lowing:*

17 (A) *An identification of all major defi-*
18 *ciencies in existing United States policies relat-*
19 *ing to the proliferation of weapons of mass de-*
20 *struction and the control of strategic weapons.*

21 (B) *Proposals that contain a range of op-*
22 *tions that if implemented would adequately ad-*
23 *dress any significant threat deriving from the*
24 *deficiencies in existing United States policies de-*
25 *scribed in subparagraph (A).*

26 (b) *REPORTS.*—

1 (1) *INTERIM REPORT.*—Not later than June 15,
2 2005, the Advisory Board shall prepare and submit
3 to the Undersecretary of State for Arms Control and
4 International Security an interim report that con-
5 tains the initial results of the review carried out pur-
6 suant to subsection (a).

7 (2) *FINAL REPORT.*—Not later than December 1,
8 2005, the Advisory Board shall prepare and submit
9 to the Undersecretary of State for Arms Control and
10 International Security, and to the Committee on
11 International Relations of the House of Representa-
12 tives and the Committee on Foreign Relations of the
13 Senate, a final report that contains the comprehensive
14 results of the review carried out pursuant to sub-
15 section (a).

16 (c) *EXPERTS AND CONSULTANTS.*—In carrying out
17 this section, the Advisory Board may procure temporary
18 and intermittent services of experts and consultants, includ-
19 ing experts and consultants from nongovernmental organi-
20 zations, under section 3109(b) of title 5, United States Code.

21 (d) *FUNDING AND OTHER RESOURCES.*—The Sec-
22 retary of State shall provide to the Advisory Board an ap-
23 propriate amount of funding and other resources to enable
24 the Advisory Board to carry out this section.

1 **SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT**
2 **ACTS OF INTERNATIONAL TERRORISM.**

3 *Section 1(e)(2) of the State Department Basic Authori-*
4 *ties Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by*
5 *section 3091(b), is further amended by adding at the end*
6 *the following:*

7 *“(D) ADDITIONAL DUTIES RELATING TO*
8 *INTERNATIONAL AGREEMENTS TO INTERDICT*
9 *ACTS OF INTERNATIONAL TERRORISM.—*

10 *“(i) IN GENERAL.—In addition to the*
11 *principal duties of the Coordinator de-*
12 *scribed in subparagraph (B), the Coordi-*
13 *nator, in consultation with relevant United*
14 *States Government agencies, shall seek to*
15 *negotiate on a bilateral basis international*
16 *agreements under which parties to an agree-*
17 *ment work in partnership to address and*
18 *interdict acts of international terrorism.*

19 *“(ii) TERMS OF INTERNATIONAL*
20 *AGREEMENT.—It is the sense of Congress*
21 *that—*

22 *“(I) each party to an inter-*
23 *national agreement referred to in*
24 *clause (i)—*

25 *“(aa) should be in full com-*
26 *pliance with United Nations Se-*

1 *curity Council Resolution 1373*
2 *(September 28, 2001), other ap-*
3 *propriate international agree-*
4 *ments relating to antiterrorism*
5 *measures, and such other appro-*
6 *priate criteria relating to*
7 *antiterrorism measures;*

8 *“(bb) should sign and adhere*
9 *to a ‘Counterterrorism Pledge’*
10 *and a list of ‘Interdiction Prin-*
11 *ciples’, to be determined by the*
12 *parties to the agreement;*

13 *“(cc) should identify assets*
14 *and agree to multilateral efforts*
15 *that maximizes the country’s*
16 *strengths and resources to address*
17 *and interdict acts of international*
18 *terrorism or the financing of such*
19 *acts;*

20 *“(dd) should agree to joint*
21 *training exercises among the other*
22 *parties to the agreement; and*

23 *“(ee) should agree to the ne-*
24 *gotiation and implementation of*
25 *other relevant international agree-*

1 *ments and consensus-based inter-*
2 *national standards; and*

3 “(II) *an international agreement*
4 *referred to in clause (i) should contain*
5 *provisions that require the parties to*
6 *the agreement—*

7 “(aa) *to identify regions*
8 *throughout the world that are*
9 *emerging terrorist threats;*

10 “(bb) *to establish terrorism*
11 *interdiction centers in such re-*
12 *gions and other regions, as appro-*
13 *priate;*

14 “(cc) *to deploy terrorism pre-*
15 *vention teams to such regions, in-*
16 *cluding United States-led teams;*
17 *and*

18 “(dd) *to integrate intel-*
19 *ligence, military, and law enforce-*
20 *ment personnel from countries*
21 *that are parties to the agreement*
22 *in order to work directly with the*
23 *regional centers described in item*
24 *(bb) and regional teams described*
25 *in item (cc).”.*

1 **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-**
 2 **TENTION AND HUMANE TREATMENT OF CAP-**
 3 **TURED TERRORISTS.**

4 *It is the sense of Congress that the President should*
 5 *pursue by all appropriate diplomatic means with countries*
 6 *that are participating in the Coalition to fight terrorism*
 7 *the development of an effective approach toward the deten-*
 8 *tion and humane treatment of captured terrorists. The effec-*
 9 *tive approach referred to in this section may, as appro-*
 10 *priate, draw on Article 3 of the Convention Relative to the*
 11 *Treatment of Prisoners of War, done at Geneva on August*
 12 *12, 1949 (6 UST 3316).*

13 ***Subtitle B—Prevent the Continued***
 14 ***Growth of Terrorism***

15 **CHAPTER 1—UNITED STATES PUBLIC**
 16 **DIPLOMACY**

17 **SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC**
 18 **DIPLOMACY STRATEGY.**

19 *(a) IN GENERAL.—The Secretary of State, in coordi-*
 20 *nation with all appropriate Federal agencies, shall submit*
 21 *to the Committee on International Relations of the House*
 22 *of Representatives and the Committee on Foreign Relations*
 23 *of the Senate an annual assessment of the impact of public*
 24 *diplomacy efforts on target audiences. Each assessment*
 25 *shall review the United States public diplomacy strategy*
 26 *worldwide and by region, including an examination of the*

1 *allocation of resources and an evaluation and assessment*
2 *of the progress in, and barriers to, achieving the goals set*
3 *forth under previous plans submitted under this section. Not*
4 *later than March 15 of every year, the Secretary shall sub-*
5 *mit the assessment required by this subsection.*

6 **(b) FURTHER ACTION.**—*On the basis of such review,*
7 *the Secretary, in coordination with all appropriate Federal*
8 *agencies, shall submit, as part of the annual budget submis-*
9 *sion, a public diplomacy strategy plan which specifies*
10 *goals, agency responsibilities, and necessary resources and*
11 *mechanisms for achieving such goals during the next fiscal*
12 *year. The plan may be submitted in classified form.*

13 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

14 **(a) STATEMENT OF POLICY.**—*It should be the policy*
15 *of the United States:*

16 **(1)** *The Foreign Service should recruit individ-*
17 *uals with expertise and professional experience in*
18 *public diplomacy.*

19 **(2)** *United States chiefs of mission should have*
20 *a prominent role in the formulation of public diplo-*
21 *macy strategies for the countries and regions to which*
22 *they are assigned and should be accountable for the*
23 *operation and success of public diplomacy efforts at*
24 *their posts.*

1 (3) *Initial and subsequent training of Foreign*
2 *Service officers should be enhanced to include infor-*
3 *mation and training on public diplomacy and the*
4 *tools and technology of mass communication.*

5 **(b) PERSONNEL.—**

6 (1) **QUALIFICATIONS.**—*In the recruitment, train-*
7 *ing, and assignment of members of the Foreign Serv-*
8 *ice, the Secretary of State shall emphasize the impor-*
9 *tance of public diplomacy and applicable skills and*
10 *techniques. The Secretary shall consider the priority*
11 *recruitment into the Foreign Service, at middle-level*
12 *entry, of individuals with expertise and professional*
13 *experience in public diplomacy, mass communica-*
14 *tions, or journalism. The Secretary shall give special*
15 *consideration to individuals with language facility*
16 *and experience in particular countries and regions.*

17 (2) **LANGUAGES OF SPECIAL INTEREST.**—*The*
18 *Secretary of State shall seek to increase the number*
19 *of Foreign Service officers proficient in languages*
20 *spoken in predominantly Muslim countries. Such in-*
21 *crease shall be accomplished through the recruitment*
22 *of new officers and incentives for officers in service.*

1 **SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM**
2 **COUNTRIES.**

3 (a) *DECLARATION OF POLICY.*—Congress declares that
4 the United States should commit to a long-term and sus-
5 tainable investment in promoting engagement with people
6 of all levels of society in countries with predominantly Mus-
7 lim populations, particularly with youth and those who in-
8 fluence youth. Such an investment should make use of the
9 talents and resources in the private sector and should in-
10 clude programs to increase the number of people who can
11 be exposed to the United States and its fundamental ideas
12 and values in order to dispel misconceptions. Such pro-
13 grams should include youth exchange programs, young am-
14 bassadors programs, international visitor programs, aca-
15 demic and cultural exchange programs, American Corner
16 programs, library programs, journalist exchange programs,
17 sister city programs, and other programs related to people-
18 to-people diplomacy.

19 (b) *SENSE OF CONGRESS.*—It is the sense of Congress
20 that the United States should significantly increase its in-
21 vestment in the people-to-people programs described in sub-
22 section (a).

23 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION**
24 **IN FOREIGN SERVICE.**

25 (a) *IN GENERAL.*—Section 603(b) of the Foreign Serv-
26 ice Act of 1980 (22 U.S.C. 4003(b)) is amended by adding

1 *at the end the following new sentences: “The precepts for*
 2 *such selection boards shall also consider whether the member*
 3 *of the Service or the member of the Senior Foreign Service,*
 4 *as the case may be, has served in at least one position in*
 5 *which the primary responsibility of such member was re-*
 6 *lated to public diplomacy. A member may not be promoted*
 7 *into or within the Senior Foreign Service if such member*
 8 *has not served in at least one such position.”.*

9 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 10 *section (a) shall take effect on January 1, 2009.*

11 **CHAPTER 2—UNITED STATES**

12 **MULTILATERAL DIPLOMACY**

13 **SEC. 4031. PURPOSE.**

14 *It is the purpose of this chapter to strengthen United*
 15 *States leadership and effectiveness at international organi-*
 16 *zations and multilateral institutions.*

17 **SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAU-** 18 **CUS.**

19 (a) *IN GENERAL.*—*The President, acting through the*
 20 *Secretary of State and the relevant United States chiefs of*
 21 *mission, shall—*

22 (1) *continue to strongly support and seek to ex-*
 23 *pand the work of the democracy caucus at the United*
 24 *Nations General Assembly and the United Nations*
 25 *Human Rights Commission; and*

1 (2) *seek to establish a democracy caucus at the*
2 *United Nations Conference on Disarmament and at*
3 *other broad-based international organizations.*

4 **(b) PURPOSES OF THE CAUCUS.**—*A democracy caucus*
5 *at an international organization should—*

6 (1) *forge common positions, including, as appro-*
7 *priate, at the ministerial level, on matters of concern*
8 *before the organization and work within and across*
9 *regional lines to promote agreed positions;*

10 (2) *work to revise an increasingly outmoded sys-*
11 *tem of membership selection, regional voting, and de-*
12 *cision making; and*

13 (3) *establish a rotational leadership agreement to*
14 *provide member countries an opportunity, for a set*
15 *period of time, to serve as the designated president of*
16 *the caucus, responsible for serving as its voice in each*
17 *organization.*

18 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**
19 **NATIONAL ORGANIZATIONS.**

20 **(a) UNITED STATES POLICY.**—*The President, acting*
21 *through the Secretary of State, the relevant United States*
22 *chiefs of mission, and, where appropriate, the Secretary of*
23 *the Treasury, shall use the voice, vote, and influence of the*
24 *United States to—*

1 (1) *where appropriate, reform the criteria for*
2 *leadership and, in appropriate cases, for membership,*
3 *at all United Nations bodies and at other inter-*
4 *national organizations and multilateral institutions*
5 *to which the United States is a member so as to ex-*
6 *clude countries that violate the principles of the spe-*
7 *cific organization;*

8 (2) *make it a policy of the United Nations and*
9 *other international organizations and multilateral in-*
10 *stitutions of which the United States is a member*
11 *that a member country may not stand in nomination*
12 *for membership or in nomination or in rotation for*
13 *a leadership position in such bodies if the member*
14 *country is subject to sanctions imposed by the United*
15 *Nations Security Council; and*

16 (3) *work to ensure that no member country stand*
17 *in nomination for membership, or in nomination or*
18 *in rotation for a leadership position in such organi-*
19 *zations, or for membership on the United Nations Se-*
20 *curity Council, if the member country is subject to a*
21 *determination under section 6(j)(1)(A) of the Export*
22 *Administration Act of 1979 (50 U.S.C. App.*
23 *2405(j)(1)(A)), section 620A(a) of the Foreign Assist-*
24 *ance Act of 1961 (22 U.S.C. 2371(a)), or section*

1 40(d) of the Arms Export Control Act (22 U.S.C.
2 2780(d)).

3 (b) *REPORT TO CONGRESS.*—Not later than 15 days
4 after a country subject to a determination under one or
5 more of the provisions of law specified in subsection (a)(3)
6 is selected for membership or a leadership post in an inter-
7 national organization of which the United States is a mem-
8 ber or for membership on the United Nations Security
9 Council, the Secretary of State shall submit to the Com-
10 mittee on International Relations of the House of Rep-
11 resentatives and the Committee on Foreign Relations of the
12 Senate a report on any steps taken pursuant to subsection
13 (a)(3).

14 **SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-**
15 **MACY.**

16 (a) *TRAINING PROGRAMS.*—Section 708 of the Foreign
17 Service Act of 1980 (22 U.S.C. 4028) is amended by adding
18 at the end the following new subsection:

19 “(c) *TRAINING IN MULTILATERAL DIPLOMACY.*—

20 “(1) *IN GENERAL.*—The Secretary shall establish
21 a series of training courses for officers of the Service,
22 including appropriate chiefs of mission, on the con-
23 duct of diplomacy at international organizations and
24 other multilateral institutions and at broad-based

1 *multilateral negotiations of international instru-*
2 *ments.*

3 “(2) *PARTICULAR PROGRAMS.*—*The Secretary*
4 *shall ensure that the training described in paragraph*
5 *(1) is provided at various stages of the career of mem-*
6 *bers of the service. In particular, the Secretary shall*
7 *ensure that after January 1, 2006—*

8 “(A) *officers of the Service receive training*
9 *on the conduct of diplomacy at international or-*
10 *ganizations and other multilateral institutions*
11 *and at broad-based multilateral negotiations of*
12 *international instruments as part of their train-*
13 *ing upon entry into the Service; and*

14 “(B) *officers of the Service, including chiefs*
15 *of mission, who are assigned to United States*
16 *missions representing the United States to inter-*
17 *national organizations and other multilateral*
18 *institutions or who are assigned in Washington,*
19 *D.C., to positions that have as their primary re-*
20 *sponsibility formulation of policy towards such*
21 *organizations and institutions or towards par-*
22 *ticipation in broad-based multilateral negotia-*
23 *tions of international instruments, receive spe-*
24 *cialized training in the areas described in para-*
25 *graph (1) prior to beginning of service for such*

1 assignment or, if receiving such training at that
2 time is not practical, within the first year of be-
3 ginning such assignment.”.

4 **(b) TRAINING FOR CIVIL SERVICE EMPLOYEES.**—The
5 Secretary shall ensure that employees of the Department of
6 State who are members of the civil service and who are as-
7 signed to positions described in section 708(c) of the Foreign
8 Service Act of 1980 (as amended by subsection (a)) receive
9 training described in such section.

10 **(c) CONFORMING AMENDMENTS.**—Section 708 of such
11 Act is further amended—

12 (1) in subsection (a), by striking “(a) The” and
13 inserting “(a) TRAINING ON HUMAN RIGHTS.—The”;
14 and

15 (2) in subsection (b), by striking “(b) The” and
16 inserting “(b) TRAINING ON REFUGEE LAW AND RE-
17 LIGIOUS PERSECUTION.—The”.

18 **SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OF-**
19 **FICE ON MULTILATERAL NEGOTIATIONS.**

20 **(a) ESTABLISHMENT OF OFFICE.**—The Secretary of
21 State is authorized to establish, within the Bureau of Inter-
22 national Organization Affairs, an Office on Multilateral
23 Negotiations to be headed by a Special Representative for
24 Multilateral Negotiations (in this section referred to as the
25 “Special Representative”).

1 (b) *APPOINTMENT.*—*The Special Representative shall*
2 *be appointed by the President and shall have the rank of*
3 *Ambassador-at-Large. At the discretion of the President an-*
4 *other official at the Department may serve as the Special*
5 *Representative.*

6 (c) *STAFFING.*—*The Special Representative shall have*
7 *a staff of Foreign Service and civil service officers skilled*
8 *in multilateral diplomacy.*

9 (d) *DUTIES.*—*The Special Representative shall have*
10 *the following responsibilities:*

11 (1) *IN GENERAL.*—*The primary responsibility of*
12 *the Special Representative shall be to assist in the or-*
13 *ganization of, and preparation for, United States*
14 *participation in multilateral negotiations, including*
15 *advocacy efforts undertaken by the Department of*
16 *State and other United States Government agencies.*

17 (2) *CONSULTATIONS.*—*The Special Representa-*
18 *tive shall consult with Congress, international organi-*
19 *zations, nongovernmental organizations, and the pri-*
20 *vate sector on matters affecting multilateral negotia-*
21 *tions.*

22 (3) *ADVISORY ROLE.*—*The Special Representa-*
23 *tive shall advise the Assistant Secretary for Inter-*
24 *national Organization Affairs and, as appropriate,*
25 *the Secretary of State, regarding advocacy at inter-*

1 *national organizations, multilateral institutions, and*
2 *negotiations, and shall make recommendations*
3 *regarding—*

4 *(A) effective strategies (and tactics) to*
5 *achieve United States policy objectives at multi-*
6 *lateral negotiations;*

7 *(B) the need for and timing of high level*
8 *intervention by the President, the Secretary of*
9 *State, the Deputy Secretary of State, and other*
10 *United States officials to secure support from*
11 *key foreign government officials for United*
12 *States positions at such organizations, institu-*
13 *tions, and negotiations; and*

14 *(C) the composition of United States delega-*
15 *tions to multilateral negotiations.*

16 *(4) ANNUAL DIPLOMATIC MISSIONS OF MULTI-*
17 *LATERAL ISSUES.—The Special Representative, in co-*
18 *ordination with the Assistant Secretary for Inter-*
19 *national Organization Affairs, shall organize annual*
20 *diplomatic missions to appropriate foreign countries*
21 *to conduct consultations between principal officers re-*
22 *sponsible for advising the Secretary of State on inter-*
23 *national organizations and high-level representatives*
24 *of the governments of such foreign countries to pro-*
25 *mote the United States agenda at the United Nations*

1 *General Assembly and other key international fora*
2 *(such as the United Nations Human Rights Commis-*
3 *sion).*

4 (5) *LEADERSHIP AND MEMBERSHIP OF INTER-*
5 *NATIONAL ORGANIZATIONS.—The Special Representa-*
6 *tive, in coordination with the Assistant Secretary of*
7 *International Organization Affairs, shall direct the ef-*
8 *forts of the United States to reform the criteria for*
9 *leadership of and membership in international orga-*
10 *nizations as described in section 4033.*

11 (6) *PARTICIPATION IN MULTILATERAL NEGOTIA-*
12 *TIONS.—The Secretary of State may direct the Spe-*
13 *cial Representative to serve as a member of a United*
14 *States delegation to any multilateral negotiation.*

15 (7) *COORDINATION WITH THE DEPARTMENT OF*
16 *THE TREASURY.—*

17 (A) *COORDINATION AND CONSULTATION.—*
18 *The Special Representative shall coordinate and*
19 *consult with the relevant staff at the Department*
20 *of the Treasury in order to prepare recommenda-*
21 *tions for the Secretary of State regarding multi-*
22 *lateral negotiations involving international fi-*
23 *nancial institutions and other multilateral fi-*
24 *nancial policymaking bodies.*

1 (B) *NEGOTIATING AUTHORITY CLARIFIED.*—
2 *Notwithstanding any other provision of law, the*
3 *Secretary of the Treasury shall remain the lead*
4 *representative and lead negotiator for the United*
5 *States within the international financial institu-*
6 *tions and other multilateral financial policy-*
7 *making bodies.*

8 (C) *DEFINITIONS.*—*In this paragraph:*

9 (i) *INTERNATIONAL FINANCIAL INSTI-*
10 *TUTIONS.*—*The term “international finan-*
11 *cial institutions” has the meaning given in*
12 *section 1701(c)(2) of the International Fi-*
13 *nancial Institutions Act.*

14 (ii) *OTHER MULTILATERAL FINANCIAL*
15 *POLICYMAKING BODIES.*—*The term “other*
16 *multilateral financial policymaking bodies”*
17 *means—*

18 (I) *the Financial Action Task*
19 *Force at the Organization for Eco-*
20 *nomic Cooperation and Development;*

21 (II) *the international network of*
22 *financial intelligence units known as*
23 *the “Egmont Group”;*

24 (III) *the United States, Canada,*
25 *the United Kingdom, France, Ger-*

1 *many, Italy, Japan, and Russia, when*
 2 *meeting as the Group of Eight; and*

3 *(IV) any other multilateral finan-*
 4 *cial policymaking group in which the*
 5 *Secretary of the Treasury represents*
 6 *the United States.*

7 *(iii) FINANCIAL ACTION TASK*
 8 *FORCE.—The term “Financial Action Task*
 9 *Force” means the international policy-mak-*
 10 *ing and standard-setting body dedicated to*
 11 *combating money laundering and terrorist*
 12 *financing that was created by the Group of*
 13 *Seven (G-7) in 1989.*

14 **CHAPTER 3—OTHER PUBLIC DIPLOMACY**
 15 **PROVISIONS**

16 **SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-**
 17 **ICAN-SPONSORED SCHOOLS IN PREDOMI-**
 18 **NANTLY MUSLIM COUNTRIES TO PROVIDE**
 19 **SCHOLARSHIPS.**

20 *(a) FINDINGS.—Congress finds the following:*

21 *(1) During the 2003–2004 school year, the Office*
 22 *of Overseas Schools of the Department of State is fi-*
 23 *nancially assisting 189 elementary and secondary*
 24 *schools in foreign countries.*

1 (2) *American-sponsored elementary and sec-*
2 *ondary schools are located in more than 20 countries*
3 *with significant Muslim populations in the Near*
4 *East, Africa, South Asia, Central Asia, and East*
5 *Asia.*

6 (3) *American-sponsored elementary and sec-*
7 *ondary schools provide an American-style education*
8 *in English, with curricula that typically include an*
9 *emphasis on the development of critical thinking and*
10 *analytical skills.*

11 (b) *PURPOSE.—The United States has an interest in*
12 *increasing the level of financial support provided to Amer-*
13 *ican-sponsored elementary and secondary schools in pre-*
14 *dominantly Muslim countries, in order to—*

15 (1) *increase the number of students in such coun-*
16 *tries who attend such schools;*

17 (2) *increase the number of young people who*
18 *may thereby gain at any early age an appreciation*
19 *for the culture, society, and history of the United*
20 *States; and*

21 (3) *increase the number of young people who*
22 *may thereby improve their proficiency in the English*
23 *language.*

24 (c) *PILOT PROGRAM AUTHORIZED.—The Secretary of*
25 *State, acting through the Director of the Office of Overseas*

1 *Schools of the Department of State, may conduct a pilot*
2 *program to make grants to American-sponsored elementary*
3 *and secondary schools in predominantly Muslim countries*
4 *for the purpose of providing full or partial merit-based*
5 *scholarships to students from lower- and middle-income*
6 *families of such countries to attend such schools.*

7 (d) *DETERMINATION OF ELIGIBLE STUDENTS.—For*
8 *purposes of expending grant funds, an American-sponsored*
9 *elementary and secondary school that receives a grant*
10 *under subsection (c) is authorized to establish criteria to*
11 *be implemented by such school to determine what constitutes*
12 *lower- and middle-income families in the country (or region*
13 *of the country, if regional variations in income levels in*
14 *the country are significant) in which such school is located.*

15 (e) *RESTRICTION ON USE OF FUNDS.—Amounts ap-*
16 *propriated to the Secretary of State pursuant to the author-*
17 *ization of appropriations in subsection (h) shall be used for*
18 *the sole purpose of making grants under this section, and*
19 *may not be used for the administration of the Office of*
20 *Overseas Schools of the Department of State or for any*
21 *other activity of the Office.*

22 (f) *VOLUNTARY PARTICIPATION.—Nothing in this sec-*
23 *tion shall be construed to require participation in the pilot*
24 *program by an American-sponsored elementary or sec-*
25 *ondary school in a predominantly Muslim country.*

1 (g) *REPORT.*—Not later than April 15, 2006, the Sec-
2 retary shall submit to the Committee on International Rela-
3 tions of the House of Representatives and the Committee
4 on Foreign Relations of the Senate a report on the pilot
5 program. The report shall assess the success of the program,
6 examine any obstacles encountered in its implementation,
7 and address whether it should be continued, and if so, pro-
8 vide recommendations to increase its effectiveness.

9 (h) *FUNDING.*—There are authorized to be appro-
10 priated to the Secretary of State such sums as may be nec-
11 essary for each of fiscal years 2005, 2006, and 2007 to carry
12 out this section.

13 **SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

14 (a) *FINDINGS.*—Congress makes the following findings:

15 (1) *Freedom of speech and freedom of the press*
16 *are fundamental human rights.*

17 (2) *The United States has a national interest in*
18 *promoting these freedoms by supporting free media*
19 *abroad, which is essential to the development of free*
20 *and democratic societies consistent with our own.*

21 (3) *Free media is undermined, endangered, or*
22 *nonexistent in many repressive and transitional soci-*
23 *eties around the world, including in Eurasia, Africa,*
24 *and the Middle East.*

1 (4) *Individuals lacking access to a plurality of*
2 *free media are vulnerable to misinformation and*
3 *propaganda and are potentially more likely to adopt*
4 *anti-American views.*

5 (5) *Foreign governments have a responsibility to*
6 *actively and publicly discourage and rebut unpro-*
7 *fessional and unethical media while respecting jour-*
8 *nalistic integrity and editorial independence.*

9 (b) *STATEMENTS OF POLICY.—It shall be the policy*
10 *of the United States, acting through the Secretary of State,*
11 *to—*

12 (1) *ensure that the promotion of press freedoms*
13 *and free media worldwide is a priority of United*
14 *States foreign policy and an integral component of*
15 *United States public diplomacy;*

16 (2) *respect the journalistic integrity and edi-*
17 *torial independence of free media worldwide; and*

18 (3) *ensure that widely accepted standards for*
19 *professional and ethical journalistic and editorial*
20 *practices are employed when assessing international*
21 *media.*

22 (c) *GRANTS TO PRIVATE SECTOR GROUP TO ESTAB-*
23 *LISH MEDIA NETWORK.—*

24 (1) *IN GENERAL.—Grants made available to the*
25 *National Endowment for Democracy (NED) pursuant*

1 to paragraph (3) shall be used by NED to provide
2 funding to a private sector group to establish and
3 manage a free and independent media network in ac-
4 cordance with paragraph (2).

5 (2) *PURPOSE.*—The purpose of the network shall
6 be to provide an effective forum to convene a broad
7 range of individuals, organizations, and governmental
8 participants involved in journalistic activities and
9 the development of free and independent media to—

10 (A) fund a clearinghouse to collect and
11 share information concerning international
12 media development and training;

13 (B) improve research in the field of media
14 assistance and program evaluation to better in-
15 form decisions regarding funding and program
16 design for government and private donors;

17 (C) explore the most appropriate use of ex-
18 isting means to more effectively encourage the in-
19 volvement of the private sector in the field of
20 media assistance; and

21 (D) identify effective methods for the devel-
22 opment of a free and independent media in soci-
23 eties in transition.

24 (3) *FUNDING.*—For grants made by the Depart-
25 ment of State to NED as authorized by the National

1 *Endowment for Democracy Act (Pub. L. 98–164, 97*
2 *Stat. 1039), there are authorized to be appropriated*
3 *to the Secretary of State such sums as may be nec-*
4 *essary for each of fiscal years 2005, 2006, and 2007*
5 *to carry out this section.*

6 **SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA**
7 **COVERAGE OF THE UNITED STATES.**

8 *(a) FINDINGS.—Congress finds the following:*

9 *(1) Biased or false media coverage of the United*
10 *States and its allies is a significant factor encour-*
11 *aging terrorist acts against the people of the United*
12 *States.*

13 *(2) Public diplomacy efforts designed to encour-*
14 *age an accurate understanding of the people of the*
15 *United States and the policies of the United States*
16 *are unlikely to succeed if foreign publics are subjected*
17 *to unrelenting biased or false local media coverage of*
18 *the United States.*

19 *(3) Where freedom of the press exists in foreign*
20 *countries the United States can combat biased or false*
21 *media coverage by responding in the foreign media or*
22 *by communicating directly to foreign publics in such*
23 *countries.*

24 *(4) Foreign governments which encourage biased*
25 *or false media coverage of the United States bear a*

1 *significant degree of responsibility for creating a cli-*
2 *mate within which terrorism can flourish. Such gov-*
3 *ernments are responsible for encouraging biased or*
4 *false media coverage if they—*

5 *(A) issue direct or indirect instructions to*
6 *the media to publish biased or false information*
7 *regarding the United States;*

8 *(B) make deliberately biased or false charges*
9 *expecting that such charges will be disseminated;*
10 *or*

11 *(C) so severely constrain the ability of the*
12 *media to express criticism of any such govern-*
13 *ment that one of the few means of political ex-*
14 *pression available is criticism of the United*
15 *States.*

16 *(b) STATEMENTS OF POLICY.—*

17 *(1) FOREIGN GOVERNMENTS.—It shall be the pol-*
18 *icy of the United States to regard foreign governments*
19 *as knowingly engaged in unfriendly acts toward the*
20 *United States if such governments—*

21 *(A) instruct their state-owned or influenced*
22 *media to include content that is anti-American*
23 *or prejudicial to the foreign and security policies*
24 *of the United States; or*

1 (B) make deliberately false charges regard-
2 ing the United States or permit false or biased
3 charges against the United States to be made
4 while constraining normal political discourse.

5 (2) *SEEKING MEDIA ACCESS; RESPONDING TO*
6 *FALSE CHARGES.*—It shall be the policy of the United
7 States to—

8 (A) seek access to the media in foreign coun-
9 tries on terms no less favorable than those af-
10 forded any other foreign entity or on terms
11 available to the foreign country in the United
12 States; and

13 (B) combat biased or false media coverage
14 in foreign countries of the United States and its
15 allies by responding in the foreign media or by
16 communicating directly to foreign publics.

17 (c) *RESPONSIBILITIES REGARDING BIASED OR FALSE*
18 *MEDIA COVERAGE.*—

19 (1) *SECRETARY OF STATE.*—The Secretary of
20 State shall instruct chiefs of mission to report on and
21 combat biased or false media coverage originating in
22 or received in foreign countries to which such chiefs
23 are posted. Based on such reports and other informa-
24 tion available to the Secretary, the Secretary shall
25 prioritize efforts to combat such media coverage, giv-

1 *ing special attention to audiences where fostering*
2 *popular opposition to terrorism is most important*
3 *and such media coverage is most prevalent.*

4 (2) *CHIEFS OF MISSION.*—*Chiefs of mission shall*
5 *have the following responsibilities:*

6 (A) *Chiefs of mission shall give strong pri-*
7 *ority to combatting biased or false media reports*
8 *in foreign countries to which such chiefs are*
9 *posted regarding the United States.*

10 (B) *Chiefs of mission posted to foreign*
11 *countries in which freedom of the press exists*
12 *shall inform the governments of such countries of*
13 *the policies of the United States regarding biased*
14 *or false media coverage of the United States, and*
15 *shall make strong efforts to persuade such gov-*
16 *ernments to change policies that encourage such*
17 *media coverage.*

18 (d) *REPORTS.*—*Not later than 120 days after the date*
19 *of the enactment of this Act and at least annually thereafter*
20 *until January 1, 2015, the Secretary shall submit to the*
21 *Committee on International Relations of the House of Rep-*
22 *resentatives and the Committee on Foreign Relations of the*
23 *Senate a report regarding the major themes of biased or*
24 *false media coverage of the United States in foreign coun-*
25 *tries, the actions taken to persuade foreign governments to*

1 *change policies that encourage such media coverage (and*
2 *the results of such actions), and any other actions taken*
3 *to combat such media coverage in foreign countries.*

4 **SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.**

5 (a) *REPORT.*—*Not later than 180 days after the date*
6 *of the enactment of this Act, the President shall transmit*
7 *to the Committee on International Relations of the House*
8 *of Representatives and the Committee on Foreign Relations*
9 *of the Senate a report on the strategy of the United States*
10 *to expand its outreach to foreign Muslim audiences through*
11 *broadcast media.*

12 (b) *CONTENT.*—*The report required under subsection*
13 *(a) shall contain the following:*

14 (1) *An assessment of the Broadcasting Board of*
15 *Governors and the public diplomacy activities of the*
16 *Department of State with respect to outreach to for-*
17 *ign Muslim audiences through broadcast media.*

18 (2) *An outline of recommended actions that the*
19 *United States should take to more regularly and com-*
20 *prehensively present a United States point of view*
21 *through indigenous broadcast media in countries with*
22 *sizeable Muslim populations, including increasing ap-*
23 *pearances by United States Government officials, ex-*
24 *perts, and citizens.*

1 (3) *An assessment of potential incentives for, and*
2 *costs associated with, encouraging United States*
3 *broadcasters to dub or subtitle into Arabic and other*
4 *relevant languages their news and public affairs pro-*
5 *grams broadcast in Muslim countries in order to*
6 *present those programs to a much broader Muslim*
7 *audience than is currently reached.*

8 (4) *An assessment of providing a training pro-*
9 *gram in media and press affairs for members of the*
10 *Foreign Service.*

11 **SEC. 4045. OFFICE RELOCATION.**

12 *As soon as practicable after the date of the enactment*
13 *of this Act, the Secretary of State shall take such actions*
14 *as are necessary to consolidate within the Harry S. Tru-*
15 *man Building all offices of the Department of State that*
16 *are responsible for the conduct of public diplomacy, includ-*
17 *ing the Bureau of Educational and Cultural Affairs.*

18 **SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOC-**

19 **RACIES FOR MUSLIM COUNTRIES.**

20 (a) *SENSE OF CONGRESS.—It is the sense of Congress*
21 *that the United States—*

22 (1) *should work with the Community of Democ-*
23 *racies to discuss, develop, and refine policies and as-*
24 *sistance programs to support and promote political,*

1 *economic, judicial, educational, and social reforms in*
2 *Muslim countries;*

3 (2) *should, as part of that effort, secure support*
4 *to require countries seeking membership in the Com-*
5 *munity of Democracies to be in full compliance with*
6 *the Community's criteria for participation, as estab-*
7 *lished by the Community's Convening Group, should*
8 *work to ensure that the criteria are part of a legally*
9 *binding document, and should urge other donor coun-*
10 *tries to use compliance with the criteria as a basis for*
11 *determining diplomatic and economic relations (in-*
12 *cluding assistance programs) with such participating*
13 *countries; and*

14 (3) *should seek support for international con-*
15 *tributions to the Community of Democracies and*
16 *should seek authority for the Community's Convening*
17 *Group to oversee adherence and compliance of partici-*
18 *pating countries with the criteria.*

19 (b) *MIDDLE EAST PARTNERSHIP INITIATIVE AND*
20 *BROADER MIDDLE EAST AND NORTH AFRICA INITIA-*
21 *TIVE.—Amounts made available to carry out the Middle*
22 *East Partnership Initiative and the Broader Middle East*
23 *and North Africa Initiative may be made available to the*
24 *Community of Democracies in order to strengthen and ex-*
25 *pand its work with Muslim countries.*

1 (c) *REPORT.*—*The Secretary of State shall include in*
 2 *the annual report entitled “Supporting Human Rights and*
 3 *Democracy: The U.S. Record” a description of efforts by*
 4 *the Community of Democracies to support and promote po-*
 5 *litical, economic, judicial, educational, and social reforms*
 6 *in Muslim countries and the extent to which such countries*
 7 *meet the criteria for participation in the Community of De-*
 8 *mocracies.*

9 ***Subtitle C—Reform of Designation***
 10 ***of Foreign Terrorist Organizations***

11 ***SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANI-***
 12 ***ZATIONS.***

13 (a) *PERIOD OF DESIGNATION.*—*Section 219(a)(4) of*
 14 *the Immigration and Nationality Act (8 U.S.C. 1189(a)(4))*
 15 *is amended—*

16 (1) *in subparagraph (A)—*

17 (A) *by striking “Subject to paragraphs (5)*
 18 *and (6), a” and inserting “A”; and*

19 (B) *by striking “for a period of 2 years be-*
 20 *ginning on the effective date of the designation*
 21 *under paragraph (2)(B)” and inserting “until*
 22 *revoked under paragraph (5) or (6) or set aside*
 23 *pursuant to subsection (c)”;*

24 (2) *by striking subparagraph (B) and inserting*
 25 *the following:*

1 “(B) *REVIEW OF DESIGNATION UPON PETI-*
2 *TION.*—

3 “(i) *IN GENERAL.*—*The Secretary shall*
4 *review the designation of a foreign terrorist*
5 *organization under the procedures set forth*
6 *in clauses (iii) and (iv) if the designated or-*
7 *ganization files a petition for revocation*
8 *within the petition period described in*
9 *clause (i).*

10 “(ii) *PETITION PERIOD.*—*For purposes*
11 *of clause (i)*—

12 “(I) *if the designated organization*
13 *has not previously filed a petition for*
14 *revocation under this subparagraph,*
15 *the petition period begins 2 years after*
16 *the date on which the designation was*
17 *made; or*

18 “(II) *if the designated organiza-*
19 *tion has previously filed a petition for*
20 *revocation under this subparagraph,*
21 *the petition period begins 2 years after*
22 *the date of the determination made*
23 *under clause (iv) on that petition.*

24 “(iii) *PROCEDURES.*—*Any foreign ter-*
25 *rorist organization that submits a petition*

1 *for revocation under this subparagraph*
2 *must provide evidence in that petition that*
3 *the relevant circumstances described in*
4 *paragraph (1) are sufficiently different*
5 *from the circumstances that were the basis*
6 *for the designation such that a revocation*
7 *with respect to the organization is war-*
8 *ranted.*

9 “(iv) *DETERMINATION.*—

10 “(I) *IN GENERAL.*—*Not later than*
11 *180 days after receiving a petition for*
12 *revocation submitted under this sub-*
13 *paragraph, the Secretary shall make a*
14 *determination as to such revocation.*

15 “(II) *CLASSIFIED INFORMATION.*—*The Secretary may consider*
16 *classified information in making a de-*
17 *termination in response to a petition*
18 *for revocation. Classified information*
19 *shall not be subject to disclosure for*
20 *such time as it remains classified, ex-*
21 *cept that such information may be dis-*
22 *closed to a court ex parte and in cam-*
23 *era for purposes of judicial review*
24 *under subsection (c).*
25

1 “(III) *PUBLICATION OF DETER-*
2 *MINATION.*—*A determination made by*
3 *the Secretary under this clause shall be*
4 *published in the Federal Register.*

5 “(IV) *PROCEDURES.*—*Any revoca-*
6 *tion by the Secretary shall be made in*
7 *accordance with paragraph (6).”;* and

8 (3) *by adding at the end the following:*

9 “(C) *OTHER REVIEW OF DESIGNATION.*—

10 “(i) *IN GENERAL.*—*If in a 6-year pe-*
11 *riod no review has taken place under sub-*
12 *paragraph (B), the Secretary shall review*
13 *the designation of the foreign terrorist orga-*
14 *nization in order to determine whether such*
15 *designation should be revoked pursuant to*
16 *paragraph (6).*

17 “(ii) *PROCEDURES.*—*If a review does*
18 *not take place pursuant to subparagraph*
19 *(B) in response to a petition for revocation*
20 *that is filed in accordance with that sub-*
21 *paragraph, then the review shall be con-*
22 *ducted pursuant to procedures established*
23 *by the Secretary. The results of such review*
24 *and the applicable procedures shall not be*
25 *reviewable in any court.*

1 “(iii) *PUBLICATION OF RESULTS OF*
2 *REVIEW.—The Secretary shall publish any*
3 *determination made pursuant to this sub-*
4 *paragraph in the Federal Register.”.*

5 (b) *ALIASES.—Section 219 of the Immigration and*
6 *Nationality Act (8 U.S.C. 1189) is amended—*

7 (1) *by redesignating subsections (b) and (c) as*
8 *subsections (c) and (d), respectively; and*

9 (2) *by inserting after subsection (a) the following*
10 *new subsection (b):*

11 “(b) *AMENDMENTS TO A DESIGNATION.—*

12 “(1) *IN GENERAL.—The Secretary may amend a*
13 *designation under this subsection if the Secretary*
14 *finds that the organization has changed its name,*
15 *adopted a new alias, dissolved and then reconstituted*
16 *itself under a different name or names, or merged*
17 *with another organization.*

18 “(2) *PROCEDURE.—Amendments made to a des-*
19 *ignation in accordance with paragraph (1) shall be*
20 *effective upon publication in the Federal Register.*
21 *Subparagraphs (B) and (C) of subsection (a)(2) shall*
22 *apply to an amended designation upon such publica-*
23 *tion. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8)*
24 *of subsection (a) shall also apply to an amended des-*
25 *ignation.*

1 “(3) *ADMINISTRATIVE RECORD.*—*The adminis-*
2 *trative record shall be corrected to include the amend-*
3 *ments as well as any additional relevant information*
4 *that supports those amendments.*

5 “(4) *CLASSIFIED INFORMATION.*—*The Secretary*
6 *may consider classified information in amending a*
7 *designation in accordance with this subsection. Clas-*
8 *sified information shall not be subject to disclosure for*
9 *such time as it remains classified, except that such*
10 *information may be disclosed to a court ex parte and*
11 *in camera for purposes of judicial review under sub-*
12 *section (c).”.*

13 “(c) *TECHNICAL AND CONFORMING AMENDMENTS.*—
14 *Section 219 of the Immigration and Nationality Act (8*
15 *U.S.C. 1189) is amended—*

16 (1) *in subsection (a)—*

17 (A) *in paragraph (3)(B), by striking “sub-*
18 *section (b)” and inserting “subsection (c)”;*

19 (B) *in paragraph (6)(A)—*

20 (i) *in the matter preceding clause (i),*
21 *by striking “or a redesignation made under*
22 *paragraph (4)(B)” and inserting “at any*
23 *time, and shall revoke a designation upon*
24 *completion of a review conducted pursuant*

1 to subparagraphs (B) and (C) of paragraph
2 (4)”; and

3 (ii) in clause (i), by striking “or redesi-
4 gnation”;

5 (C) in paragraph (7), by striking “, or the
6 revocation of a redesignation under paragraph
7 (6),”; and

8 (D) in paragraph (8)—

9 (i) by striking “, or if a redesignation
10 under this subsection has become effective
11 under paragraph (4)(B),”; and

12 (ii) by striking “or redesignation”; and
13 (2) in subsection (c), as so redesignated—

14 (A) in paragraph (1), by striking “of the
15 designation in the Federal Register,” and all
16 that follows through “review of the designation”
17 and inserting “in the Federal Register of a des-
18 ignation, an amended designation, or a deter-
19 mination in response to a petition for revoca-
20 tion, the designated organization may seek judi-
21 cial review”;

22 (B) in paragraph (2), by inserting “,
23 amended designation, or determination in re-
24 sponse to a petition for revocation” after “des-
25 ignation”;

1 (C) in paragraph (3), by inserting “,
2 amended designation, or determination in re-
3 sponse to a petition for revocation” after “des-
4 ignation”; and

5 (D) in paragraph (4), by inserting “,
6 amended designation, or determination in re-
7 sponse to a petition for revocation” after “des-
8 ignation” each place that term appears.

9 (d) SAVINGS PROVISION.—For purposes of applying
10 section 219 of the Immigration and Nationality Act on or
11 after the date of enactment of this Act, the term “designa-
12 tion”, as used in that section, includes all redesignations
13 made pursuant to section 219(a)(4)(B) of the Immigration
14 and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the
15 date of enactment of this Act, and such redesignations shall
16 continue to be effective until revoked as provided in para-
17 graph (5) or (6) of section 219(a) of the Immigration and
18 Nationality Act (8 U.S.C. 1189(a)).

1 **SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE**
2 **COUNTRY REPORTS ON TERRORISM OF IN-**
3 **FORMATION ON TERRORIST GROUPS THAT**
4 **SEEK WEAPONS OF MASS DESTRUCTION AND**
5 **GROUPS THAT HAVE BEEN DESIGNATED AS**
6 **FOREIGN TERRORIST ORGANIZATIONS.**

7 (a) *INCLUSION IN REPORTS.*—Section 140 of the For-
8 eign Relations Authorization Act, Fiscal Years 1988 and
9 1989 (22 U.S.C. 2656f) is amended—

10 (1) in subsection (a)(2)—

11 (A) by inserting “any terrorist group
12 known to have obtained or developed, or to have
13 attempted to obtain or develop, weapons of mass
14 destruction,” after “during the preceding five
15 years,”; and

16 (B) by inserting “any group designated by
17 the Secretary as a foreign terrorist organization
18 under section 219 of the Immigration and Na-
19 tionality Act (8 U.S.C. 1189),” after “Export
20 Administration Act of 1979,”;

21 (2) in subsection (b)(1)(C)(iii), by striking
22 “and” at the end;

23 (3) in subsection (b)(1)(C)—

24 (A) by redesignating clause (iv) as clause
25 (v); and

1 (B) by inserting after clause (iii) the fol-
2 lowing new clause:

3 “(iv) providing weapons of mass de-
4 struction, or assistance in obtaining or de-
5 veloping such weapons, to terrorists or ter-
6 rorist groups; and”;

7 (4) in subsection (b)(3) (as redesignated by sec-
8 tion 4002(b)(2)(B) of this Act)—

9 (A) by redesignating subparagraphs (C),
10 (D), and (E) as (D), (E), and (F), respectively;
11 and

12 (B) by inserting after subparagraph (B) the
13 following new subparagraph:

14 “(C) efforts by those groups to obtain or de-
15 velop weapons of mass destruction;”.

16 (b) *EFFECTIVE DATE.*—The amendments made by sub-
17 section (a) shall apply beginning with the first report under
18 section 140 of the Foreign Relations Authorization Act, Fis-
19 cal Years 1988 and 1989 (22 U.S.C. 2656f), submitted more
20 than one year after the date of the enactment of this Act.

21 **Subtitle D—Afghanistan Freedom**
22 **Support Act Amendments of 2004**

23 **SEC. 4061. SHORT TITLE.**

24 This subtitle may be cited as the “Afghanistan Free-
25 dom Support Act Amendments of 2004”.

1 **SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANI-**
2 **STAN.**

3 (a) *FINDINGS.*—Congress finds that—

4 (1) *the Final Report of the National Commission*
5 *on Terrorist Attacks Upon the United States criti-*
6 *cized the provision of United States assistance to Af-*
7 *ghanistan for being too inflexible; and*

8 (2) *the Afghanistan Freedom Support Act of*
9 *2002 (Public Law 107–327; 22 U.S.C. 7501 et seq.)*
10 *contains provisions that provide for flexibility in the*
11 *provision of assistance for Afghanistan and are not*
12 *subject to the requirements of typical foreign assist-*
13 *ance programs and provide for the designation of a*
14 *coordinator to oversee United States assistance for Af-*
15 *ghanistan.*

16 (b) *DESIGNATION OF COORDINATOR.*—Section 104(a)
17 *of the Afghanistan Freedom Support Act of 2002 (22 U.S.C.*
18 *7514(a)) is amended in the matter preceding paragraph (1)*
19 *by striking “is strongly urged to” and inserting “shall”.*

20 (c) *OTHER MATTERS.*—Section 104 of such Act (22
21 *U.S.C. 7514) is amended by adding at the end the following:*

22 “(c) *PROGRAM PLAN.*—The coordinator designated
23 *under subsection (a) shall annually submit to the Commit-*
24 *tees on International Relations and Appropriations of the*
25 *House of Representatives and the Committees on Foreign*
26 *Relations and Appropriations of the Senate the Adminis-*

1 *tration’s plan for assistance to Afghanistan together with*
 2 *a description of such assistance in prior years.*

3 “(d) *COORDINATION WITH INTERNATIONAL COMMU-*
 4 *NITY.—The coordinator designated under subsection (a)*
 5 *shall work with the international community and the Gov-*
 6 *ernment of Afghanistan to ensure that assistance to Afghan-*
 7 *istan is implemented in a coherent, consistent, and efficient*
 8 *manner to prevent duplication and waste. The coordinator*
 9 *designated under subsection (a) shall work through the Sec-*
 10 *retary of the Treasury and the United States Executive Di-*
 11 *rectors at the international financial institutions in order*
 12 *to effectuate these responsibilities within the international*
 13 *financial institutions. The term ‘international financial in-*
 14 *stitution’ has the meaning given in section 1701(c)(2) of*
 15 *the International Financial Institutions Act.”.*

16 **SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**
 17 **GHANISTAN FREEDOM SUPPORT ACT OF 2002.**

18 (a) *ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL*
 19 *AND SOCIAL DEVELOPMENT.—*

20 (1) *DECLARATION OF POLICY.—Congress reaff-*
 21 *irms the authorities contained in title I of the Af-*
 22 *ghanistan Freedom Support Act of 2002 (22 U.S.C.*
 23 *7501 et seq.; relating to economic and democratic de-*
 24 *velopment assistance for Afghanistan).*

1 (2) *PROVISION OF ASSISTANCE.*—Section 103(a)
2 of such Act (22 U.S.C. 7513(a)) is amended in the
3 matter preceding paragraph (1) by striking “section
4 512 of Public Law 107–115 or any other similar”
5 and inserting “any other”.

6 (b) *DECLARATIONS OF POLICY.*—Congress makes the
7 following declarations:

8 (1) *The United States reaffirms the support that*
9 *it and other countries expressed for the report entitled*
10 *“Securing Afghanistan’s Future” in their Berlin Dec-*
11 *laration of April 2004. The United States should help*
12 *enable the growth needed to create an economically*
13 *sustainable Afghanistan capable of the poverty reduc-*
14 *tion and social development foreseen in the report.*

15 (2) *The United States supports the parliamen-*
16 *tary elections to be held in Afghanistan by April 2005*
17 *and will help ensure that such elections are not un-*
18 *dermined by warlords or narcotics traffickers.*

19 (3)(A) *The United States continues to urge*
20 *North Atlantic Treaty Organization members and*
21 *other friendly countries to make much greater mili-*
22 *tary contributions toward securing the peace in Af-*
23 *ghanistan.*

24 (B) *The United States should continue to lead in*
25 *the security domain by, among other things, pro-*

1 *viding logistical support to facilitate those contribu-*
2 *tions.*

3 *(C) In coordination with the Government of Af-*
4 *ghanistan, the United States should urge others, and*
5 *act itself, to increase efforts to promote disarmament,*
6 *demobilization, and reintegration efforts, to enhance*
7 *counternarcotics activities, to expand deployments of*
8 *Provincial Reconstruction Teams, and to increase*
9 *training of Afghanistan's National Army and its po-*
10 *lice and border security forces.*

11 *(c) LONG-TERM STRATEGY.—*

12 *(1) STRATEGY.—Title III of such Act (22 U.S.C.*
13 *7551 et seq.) is amended by adding at the end the fol-*
14 *lowing:*

15 **“SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR**
16 **AFGHANISTAN.**

17 *“(a) STRATEGY.—*

18 *“(1) IN GENERAL.—Not later than 180 days*
19 *after the date of the enactment of the Afghanistan*
20 *Freedom Support Act Amendments of 2004, the Presi-*
21 *dent shall formulate and transmit to the Committee*
22 *on International Relations of the House of Represent-*
23 *atives and the Committee on Foreign Relations of the*
24 *Senate a 5-year strategy for Afghanistan that in-*
25 *cludes specific and measurable goals, timeframes for*

1 *accomplishing such goals, and specific resource levels*
2 *necessary for accomplishing such goals for addressing*
3 *the long-term development and security needs of Af-*
4 *ghanistan, including sectors such as agriculture and*
5 *irrigation, parliamentary and democratic develop-*
6 *ment, the judicial system and rule of law, human*
7 *rights, education, health, telecommunications, elec-*
8 *tricity, women’s rights, counternarcotics, police, bor-*
9 *der security, anti-corruption, and other law-enforce-*
10 *ment activities.*

11 *“(2) ADDITIONAL REQUIREMENT.—The strategy*
12 *shall also delineate responsibilities for achieving such*
13 *goals and identify and address possible external fac-*
14 *tors that could significantly affect the achievement of*
15 *such goals.*

16 *“(b) IMPLEMENTATION.—Not later than 30 days after*
17 *the date of the transmission of the strategy required by sub-*
18 *section (a), the Secretary of State, the Administrator of the*
19 *United States Agency for International Development, and*
20 *the Secretary of Defense shall submit to the Committee on*
21 *International Relations of the House of Representatives and*
22 *the Committee on Foreign Relations of the Senate a written*
23 *5-year action plan to implement the strategy developed pur-*
24 *suant to subsection (a). Such action plan shall include a*
25 *description and schedule of the program evaluations that*

1 *will monitor progress toward achieving the goals described*
 2 *in subsection (a).*

3 “(c) *REVIEW.*—*The Secretary of State, the Adminis-*
 4 *trator of the United States Agency for International Devel-*
 5 *opment, and the Secretary of Defense shall carry out an*
 6 *annual review of the strategy required by subsection (a) and*
 7 *the action plan required by subsection (b).*

8 “(d) *MONITORING.*—*The report required by section*
 9 *206(c)(2) of this Act shall include—*

10 “(1) *a description of progress toward implemen-*
 11 *tation of both the strategy required by subsection (a)*
 12 *and the action plan required by subsection (b); and*

13 “(2) *a description of any changes to the strategy*
 14 *or action plan since the date of the submission of the*
 15 *last report required by such section.”.*

16 (2) *CLERICAL AMENDMENT.*—*The table of con-*
 17 *tents for such Act (22 U.S.C. 7501 note) is amended*
 18 *by adding after the item relating to section 303 the*
 19 *following:*

“*Sec. 304. Formulation of long-term strategy for Afghanistan.*”.

20 **SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

21 *Section 103(a)(5)(A) of the Afghanistan Freedom Sup-*
 22 *port Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—*

23 (1) *in clause (v), to read as follows:*

24 “(v) *support for the activities of the*
 25 *Government of Afghanistan to develop mod-*

1 *ern legal codes and court rules, to provide*
2 *for the creation of legal assistance pro-*
3 *grams, and other initiatives to promote the*
4 *rule of law in Afghanistan;”;*

5 (2) *in clause (xii), to read as follows:*

6 *“(xii) support for the effective adminis-*
7 *tration of justice at the national, regional,*
8 *and local levels, including programs to im-*
9 *prove penal institutions and the rehabilita-*
10 *tion of prisoners, to establish a responsible*
11 *and community-based police force, and to*
12 *rehabilitate or construct courthouses and de-*
13 *tention facilities;”;* and

14 (3) *in clause (xiii), by striking “and” at the end;*

15 (4) *in clause (xiv), by striking the period at the*
16 *end and inserting “; and”;* and

17 (5) *by adding at the end the following:*

18 *“(xv) assistance for the protection of*
19 *Afghanistan’s culture, history, and national*
20 *identity, including with the rehabilitation*
21 *of Afghanistan’s museums and sites of cul-*
22 *tural significance.”.*

1 **SEC. 4065. MONITORING OF ASSISTANCE.**

2 *Section 108 of the Afghanistan Freedom Support Act*
3 *of 2002 (22 U.S.C. 7518) is amended by adding at the end*
4 *the following:*

5 “(c) **MONITORING OF ASSISTANCE FOR AFGHANI-**
6 **STAN.**—

7 “(1) **REPORT.**—*The Secretary of State, in con-*
8 *sultation with the Administrator for the United*
9 *States Agency for International Development, shall*
10 *submit to the Committee on International Relations*
11 *of the House of Representatives and the Committee on*
12 *Foreign Relations of the Senate a report on the obli-*
13 *gations and expenditures of United States assistance*
14 *for Afghanistan from all United States Government*
15 *agencies. The first report under this paragraph shall*
16 *be submitted not later than January 15, 2005, and*
17 *subsequent reports shall be submitted every six months*
18 *thereafter and may be included in the report required*
19 *by section 206(c)(2) of this Act.*

20 “(2) **SUBMISSION OF INFORMATION FOR RE-**
21 **PORT.**—*The head of each United States Government*
22 *agency referred to in paragraph (1) shall provide on*
23 *a timely basis to the Secretary of State such informa-*
24 *tion as the Secretary may reasonably require to allow*
25 *the Secretary to prepare and submit the report re-*
26 *quired by such paragraph.”.*

1 **SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**
 2 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**
 3 **PORT EXPANSION OF INTERNATIONAL**
 4 **PEACEKEEPING AND SECURITY OPERATIONS**
 5 **IN AFGHANISTAN.**

6 (a) *DISARMAMENT OF PRIVATE MILITIAS.*—Section
 7 103 of the Afghanistan Freedom Support Act of 2002 (22
 8 U.S.C. 7513) is amended by adding at the end the following:

9 “(d) *UNITED STATES POLICY RELATING TO DISAR-*
 10 *MAMENT OF PRIVATE MILITIAS.*—

11 “(1) *IN GENERAL.*—It shall be the policy of the
 12 United States to take immediate steps to provide ac-
 13 tive support for the disarmament, demobilization, and
 14 reintegration of armed soldiers, particularly child sol-
 15 diers, in Afghanistan, in close consultation with the
 16 President of Afghanistan.

17 “(2) *REPORT.*—The report required by section
 18 206(c)(2) of this Act shall include a description of the
 19 progress to implement paragraph (1).”.

20 (b) *INTERNATIONAL PEACEKEEPING AND SECURITY*
 21 *OPERATIONS.*—Section 103 of such Act (22 U.S.C.
 22 7513(d)), as amended by subsection (a), is further amended
 23 by adding at the end the following:

24 “(e) *UNITED STATES POLICY RELATING TO INTER-*
 25 *NATIONAL PEACEKEEPING AND SECURITY OPERATIONS.*—
 26 It shall be the policy of the United States to make every

1 *effort to support the expansion of international peace-*
 2 *keeping and security operations in Afghanistan in order*
 3 *to—*

4 “(1) *increase the area in which security is pro-*
 5 *vided and undertake vital tasks related to promoting*
 6 *security, such as disarming warlords, militias, and*
 7 *irregulars, and disrupting opium production; and*

8 “(2) *safeguard highways in order to allow the*
 9 *free flow of commerce and to allow material assist-*
 10 *ance to the people of Afghanistan, and aid personnel*
 11 *in Afghanistan, to move more freely.”.*

12 **SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-**
 13 **KEEPING AND SECURITY OPERATIONS IN AF-**
 14 **GHANISTAN.**

15 *Section 206(d)(1) of the Afghanistan Freedom Support*
 16 *Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as*
 17 *follows:*

18 “(1) **EFFORTS TO EXPAND INTERNATIONAL**
 19 **PEACEKEEPING AND SECURITY OPERATIONS IN AF-**
 20 **GHANISTAN.—**

21 “(A) **EFFORTS.**—*The President shall en-*
 22 *courage, and, as authorized by law, enable other*
 23 *countries to actively participate in expanded*
 24 *international peacekeeping and security oper-*
 25 *ations in Afghanistan, especially through the*

1 *provision of military personnel for extended pe-*
2 *riods of time.*

3 “(B) *REPORTS.*—*The President shall pre-*
4 *pare and transmit to the Committee on Inter-*
5 *national Relations of the House of Representa-*
6 *tives and the Committee on Foreign Relations of*
7 *the Senate a report on efforts carried out pursu-*
8 *ant to subparagraph (A). The first report under*
9 *this subparagraph shall be transmitted not later*
10 *than 60 days after the date of the enactment of*
11 *the Afghanistan Freedom Support Act Amend-*
12 *ments of 2004 and subsequent reports shall be*
13 *transmitted every six months thereafter and may*
14 *be included in the report required by subsection*
15 *(c)(2).”.*

16 **SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS**
17 **EFFORTS IN AFGHANISTAN.**

18 (a) *COUNTERNARCOTICS EFFORTS.*—*The Afghanistan*
19 *Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is*
20 *amended—*

21 (1) *by redesignating—*

22 (A) *title III as title IV; and*

23 (B) *sections 301 through 305 as sections*
24 *401 through 405, respectively; and*

25 (2) *by inserting after title II the following:*

1 **“TITLE III—PROVISIONS RELAT-**
2 **ING TO COUNTERNARCOTICS**
3 **EFFORTS IN AFGHANISTAN**

4 **“SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EF-**
5 **FORTS.**

6 *“In addition to programs established pursuant to sec-*
7 *tion 103(a)(3) of this Act or other similar programs, the*
8 *President is authorized and encouraged to implement spe-*
9 *cific initiatives to assist in the eradication of poppy cul-*
10 *tivation and the disruption of heroin production in Afghan-*
11 *istan, such as—*

12 *“(1) promoting alternatives to poppy cultivation,*
13 *including the introduction of high value crops that*
14 *are suitable for export and the provision of appro-*
15 *priate technical assistance and credit mechanisms for*
16 *farmers;*

17 *“(2) enhancing the ability of farmers to bring le-*
18 *gitimate agricultural goods to market;*

19 *“(3) notwithstanding section 660 of the Foreign*
20 *Assistance Act of 1961 (22 U.S.C. 2420), assistance,*
21 *including nonlethal equipment, training (including*
22 *training in internationally recognized standards of*
23 *human rights, the rule of law, anti-corruption, and*
24 *the promotion of civilian police roles that support de-*
25 *mocracy), and payments, during fiscal years 2006*

1 *through 2008, for salaries for special counternarcotics*
2 *police and supporting units;*

3 *“(4) training the Afghan National Army in*
4 *counternarcotics activities; and*

5 *“(5) creating special counternarcotics courts,*
6 *prosecutors, and places of incarceration.*

7 **“SEC. 302. SENSE OF CONGRESS AND REPORT REGARDING**
8 **COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

9 *“(a) SENSE OF CONGRESS.—It is the sense of Congress*
10 *that—*

11 *“(1) the President should make the substantial*
12 *reduction of illegal drug production and trafficking*
13 *in Afghanistan a priority in the Global War on Ter-*
14 *rorism;*

15 *“(2) the Secretary of Defense, in coordination*
16 *with the Secretary of State and the heads of other ap-*
17 *propriate Federal agencies, should expand cooperation*
18 *with the Government of Afghanistan and inter-*
19 *national organizations involved in counter-drug ac-*
20 *tivities to assist in providing a secure environment*
21 *for counter-drug personnel in Afghanistan; and*

22 *“(3) the United States, in conjunction with the*
23 *Government of Afghanistan and coalition partners,*
24 *should undertake additional efforts to reduce illegal*
25 *drug trafficking and related activities that provide fi-*

1 *nancial support for terrorist organizations in Afghan-*
2 *istan and neighboring countries.*

3 “(b) *REPORT REQUIRED.—(1) The Secretary of De-*
4 *fense and the Secretary of State shall jointly prepare a re-*
5 *port that describes—*

6 “(A) *the progress made towards substantially re-*
7 *ducing poppy cultivation and heroin production ca-*
8 *pabilities in Afghanistan; and*

9 “(B) *the extent to which profits from illegal drug*
10 *activity in Afghanistan are used to financially sup-*
11 *port terrorist organizations and groups seeking to un-*
12 *dermine the Government of Afghanistan.*

13 “(2) *The report required by this subsection shall be*
14 *submitted to Congress not later than 120 days after the date*
15 *of the enactment of the 9/11 Recommendations Implementa-*
16 *tion Act.”.*

17 (b) *CLERICAL AMENDMENTS.—The table of contents for*
18 *such Act (22 U.S.C. 7501 note) is amended—*

19 (1) *by redesignating—*

20 (A) *the item relating to title III as the item*
21 *relating to title IV; and*

22 (B) *the items relating to sections 301*
23 *through 305 as the items relating to sections 401*
24 *through 405; and*

1 (2) *by inserting after the items relating to title*
 2 *II the following:*

“TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS
 EFFORTS IN AFGHANISTAN

“Sec. 301. Assistance for counternarcotics efforts.

“Sec. 302. Sense of Congress and report regarding counter-drug efforts in Afghanistan.”.

3 **SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-**
 4 **STAN FREEDOM SUPPORT ACT OF 2002.**

5 (a) *TECHNICAL AMENDMENT.—Section*
 6 *103(a)(7)(A)(xii) of the Afghanistan Freedom Support Act*
 7 *of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by strik-*
 8 *ing “National” and inserting “Afghan Independent”.*

9 (b) *REPORTING REQUIREMENT.—Section 206(c)(2) of*
 10 *such Act (22 U.S.C. 7536(c)(2)) is amended in the matter*
 11 *preceding subparagraph (A) by striking “2007” and insert-*
 12 *ing “2012”.*

13 **SEC. 4070. REPEAL.**

14 *Section 620D of the Foreign Assistance Act of 1961*
 15 *(22 U.S.C. 2374; relating to prohibition on assistance to*
 16 *Afghanistan) is hereby repealed.*

17 ***Subtitle E—Provisions Relating to***
 18 ***Saudi Arabia and Pakistan***

19 **SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATION-**
 20 **SHIP WITH SAUDI ARABIA.**

21 (a) *SENSE OF CONGRESS.—It is the sense of Congress*
 22 *that the relationship between the United States and Saudi*

1 *Arabia should include a more robust dialogue between the*
2 *people and Government of the United States and the people*
3 *and Government of Saudi Arabia in order to provide for*
4 *a reevaluation of, and improvements to, the relationship by*
5 *both sides.*

6 (b) *REPORT.—*

7 (1) *IN GENERAL.—Not later than one year after*
8 *the date of the enactment of this Act, the President*
9 *shall transmit to the Committee on International Re-*
10 *lations of the House of Representatives and the Com-*
11 *mittee on Foreign Relations of the Senate a strategy*
12 *for collaboration with the people and Government of*
13 *Saudi Arabia on subjects of mutual interest and im-*
14 *portance to the United States.*

15 (2) *CONTENTS.—The strategy required under*
16 *paragraph (1) shall include the following provisions:*

17 (A) *A framework for security cooperation in*
18 *the fight against terrorism, with special reference*
19 *to combating terrorist financing and an exam-*
20 *ination of the origins of modern terrorism.*

21 (B) *A framework for political and economic*
22 *reform in Saudi Arabia and throughout the Mid-*
23 *dle East.*

24 (C) *An examination of steps that should be*
25 *taken to reverse the trend toward extremism in*

1 *Saudi Arabia and other Muslim countries and*
2 *throughout the Middle East.*

3 *(D) A framework for promoting greater tol-*
4 *erance and respect for cultural and religious di-*
5 *versity in Saudi Arabia and throughout the*
6 *Middle East.*

7 *(3) FORM.—The strategy required by this sub-*
8 *section may contain a classified annex.*

9 **SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE**
10 **OF PAKISTAN.**

11 *(a) SENSE OF CONGRESS.—It is the sense of Congress*
12 *that the United States should, over a long-term period, help*
13 *to ensure a promising, stable, and secure future for Paki-*
14 *stan, and should in particular provide assistance to encour-*
15 *age and enable Pakistan—*

16 *(1) to continue and improve upon its commit-*
17 *ment to combating extremists;*

18 *(2) to seek to resolve any outstanding difficulties*
19 *with its neighbors and other countries in its region;*

20 *(3) to continue to make efforts to fully control its*
21 *territory and borders;*

22 *(4) to progress towards becoming a more effective*
23 *and participatory democracy;*

1 (5) *to participate more vigorously in the global*
2 *marketplace and to continue to modernize its econ-*
3 *omy;*

4 (6) *to take all necessary steps to halt the spread*
5 *of weapons of mass destruction;*

6 (7) *to continue to reform its education system;*
7 *and*

8 (8) *to, in other ways, implement a general strat-*
9 *egy of moderation.*

10 (b) *STRATEGY.*—*Not later than 180 days after the date*
11 *of the enactment of this Act, the President shall transmit*
12 *to Congress a detailed proposed strategy for the future, long-*
13 *term, engagement of the United States with Pakistan. The*
14 *strategy required by this subsection may contain a classi-*
15 *fied annex.*

16 **SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.**

17 *The Act entitled “An Act to authorize the President*
18 *to exercise waivers of foreign assistance restrictions with re-*
19 *spect to Pakistan through September 30, 2003, and for other*
20 *purposes”, approved October 27, 2001 (Public Law 107–*
21 *57; 115 Stat. 403), as amended by section 2213 of the Emer-*
22 *gency Supplemental Appropriations Act for Defense and for*
23 *the Reconstruction of Iraq and Afghanistan, 2004 (Public*
24 *Law 108–106; 117 Stat. 1232), is further amended—*

25 (1) *in section 1(b)—*

1 (A) in the heading, by striking “FISCAL
2 YEAR 2004” and inserting “FISCAL YEARS 2005
3 AND 2006”; and

4 (B) in paragraph (1), by striking “2004”
5 and inserting “2005 or 2006”;

6 (2) in section 3(2), by striking “and 2004,” and
7 inserting “2004, 2005, and 2006”; and

8 (3) in section 6, by striking “2004” and insert-
9 ing “2006”.

10 **Subtitle F—Oversight Provisions**

11 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

12 (a) AVAILABILITY OF TREATIES AND INTERNATIONAL
13 AGREEMENTS.—Section 112a of title 1, United States Code,
14 is amended by adding at the end the following:

15 “(d) The Secretary of State shall cause to be published
16 in slip form or otherwise made publicly available through
17 the Internet website of the Department of State each treaty
18 or international agreement proposed to be published in the
19 compilation entitled ‘United States Treaties and Other
20 International Agreements’ not later than 180 days after the
21 date on which the treaty or agreement enters into force.”.

22 (b) TRANSMISSION TO CONGRESS.—Section 112b(a) of
23 title 1, United States Code (commonly referred to as the
24 “Case-Zablocki Act”), is amended—

1 (1) *in the first sentence, by striking “has entered*
2 *into force” and inserting “has been signed or entered*
3 *into force”; and*

4 (2) *in the second sentence, by striking “Com-*
5 *mittee on Foreign Affairs” and inserting “Committee*
6 *on International Relations”.*

7 (c) *REPORT.—Section 112b of title 1, United States*
8 *Code, is amended—*

9 (1) *by redesignating subsections (d) and (e) as*
10 *subsections (e) and (f), respectively; and*

11 (2) *by inserting after subsection (c) the fol-*
12 *lowing:*

13 “(d)(1) *The Secretary of State shall submit to Congress*
14 *on an annual basis a report that contains an index of all*
15 *international agreements (including oral agreements), list-*
16 *ed by country, date, title, and summary of each such agree-*
17 *ment (including a description of the duration of activities*
18 *under the agreement and the agreement itself), that the*
19 *United States—*

20 “(A) *has signed, proclaimed, or with reference to*
21 *which any other final formality has been executed, or*
22 *that has been extended or otherwise modified, during*
23 *the preceding calendar year; and*

1 “(B) has not been published, or is not proposed
2 to be published, in the compilation entitled ‘United
3 States Treaties and Other International Agreements’.

4 “(2) The report described in paragraph (1) may be
5 submitted in classified form.”.

6 (d) *DETERMINATION OF INTERNATIONAL AGREE-*
7 *MENT.—Subsection (e) of section 112b of title 1, United*
8 *States Code, (as redesignated) is amended—*

9 (1) *by striking “(e) The Secretary of State” and*
10 *inserting “(e)(1) Subject to paragraph (2), the Sec-*
11 *retary of State”; and*

12 (2) *by adding at the end the following:*

13 “(2)(A) *An arrangement shall constitute an inter-*
14 *national agreement within the meaning of this section*
15 *(other than subsection (c) of this section) irrespective of the*
16 *duration of activities under the arrangement or the ar-*
17 *rangement itself.*

18 “(B) *Arrangements that constitute an international*
19 *agreement within the meaning of this section (other than*
20 *subsection (c) of this section) include, but are not limited*
21 *to, the following:*

22 “(i) *A bilateral or multilateral counterterrorism*
23 *agreement.*

24 “(ii) *A bilateral agreement with a country that*
25 *is subject to a determination under section 6(j)(1)(A)*

1 *of the Export Administration Act of 1979 (50 U.S.C.*
 2 *App. 2405(j)(1)(A)), section 620A(a) of the Foreign*
 3 *Assistance Act of 1961 (22 U.S.C. 2371(a)), or section*
 4 *40(d) of the Arms Export Control Act (22 U.S.C.*
 5 *2780(d)).”.*

6 *(e) ENFORCEMENT OF REQUIREMENTS.—Section*
 7 *139(b) of the Foreign Relations Authorization Act, Fiscal*
 8 *Years 1988 and 1989 is amended to read as follows:*

9 *“(b) EFFECTIVE DATE.—Subsection (a) shall take ef-*
 10 *fect 60 days after the date of the enactment of the 9/11 Rec-*
 11 *ommendations Implementation Act and shall apply during*
 12 *fiscal years 2005, 2006, and 2007.”.*

13 ***Subtitle G—Additional Protections***
 14 ***of United States Aviation System***
 15 ***from Terrorist Attacks***

16 ***SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-***
 17 ***IMUM DEPLOYMENT OF FEDERAL FLIGHT***
 18 ***DECK OFFICERS.***

19 *The President is encouraged to pursue aggressively*
 20 *international agreements with foreign governments to allow*
 21 *the maximum deployment of Federal air marshals and Fed-*
 22 *eral flight deck officers on international flights.*

23 ***SEC. 4102. FEDERAL AIR MARSHAL TRAINING.***

24 *Section 44917 of title 49, United States Code, is*
 25 *amended by adding at the end the following:*

1 “(d) *TRAINING FOR FOREIGN LAW ENFORCEMENT*
2 *PERSONNEL.*—

3 “(1) *IN GENERAL.*—*The Assistant Secretary for*
4 *Immigration and Customs Enforcement of the De-*
5 *partment of Homeland Security, after consultation*
6 *with the Secretary of State, may direct the Federal*
7 *Air Marshal Service to provide appropriate air mar-*
8 *shal training to law enforcement personnel of foreign*
9 *countries.*

10 “(2) *WATCHLIST SCREENING.*—*The Federal Air*
11 *Marshal Service may only provide appropriate air*
12 *marshal training to law enforcement personnel of for-*
13 *ign countries after comparing the identifying infor-*
14 *mation and records of law enforcement personnel of*
15 *foreign countries against appropriate records in the*
16 *consolidated and integrated terrorist watchlists of the*
17 *Federal Government.*

18 “(3) *FEEES.*—*The Assistant Secretary shall estab-*
19 *lish reasonable fees and charges to pay expenses in-*
20 *curring in carrying out this subsection. Funds col-*
21 *lected under this subsection shall be credited to the ac-*
22 *count in the Treasury from which the expenses were*
23 *incurred and shall be available to the Assistant Sec-*
24 *retary for purposes for which amounts in such ac-*
25 *count are available.”.*

1 **SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS**
2 **(MANPADS).**

3 (a) *UNITED STATES POLICY ON NONPROLIFERATION*
4 *AND EXPORT CONTROL.*—

5 (1) *TO LIMIT AVAILABILITY AND TRANSFER OF*
6 *MANPADS.*—*The President shall pursue, on an urgent*
7 *basis, further strong international diplomatic and co-*
8 *operative efforts, including bilateral and multilateral*
9 *treaties, in the appropriate forum to limit the avail-*
10 *ability, transfer, and proliferation of MANPADSs*
11 *worldwide.*

12 (2) *TO LIMIT THE PROLIFERATION OF*
13 *MANPADS.*—*The President is encouraged to seek to*
14 *enter into agreements with the governments of foreign*
15 *countries that, at a minimum, would—*

16 (A) *prohibit the entry into force of a*
17 *MANPADS manufacturing license agreement*
18 *and MANPADS co-production agreement, other*
19 *than the entry into force of a manufacturing li-*
20 *cence or co-production agreement with a country*
21 *that is party to such an agreement;*

22 (B) *prohibit, except pursuant to transfers*
23 *between governments, the export of a MANPADS,*
24 *including any component, part, accessory, or at-*
25 *tachment thereof, without an individual vali-*
26 *dated license; and*

1 (C) prohibit the reexport or retransfer of a
2 MANPADS, including any component, part, ac-
3 cessory, or attachment thereof, to a third person,
4 organization, or government unless the written
5 consent of the government that approved the
6 original export or transfer is first obtained.

7 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

8 *The President should continue to pursue further*
9 *strong international diplomatic and cooperative ef-*
10 *forts, including bilateral and multilateral treaties, in*
11 *the appropriate forum to assure the destruction of ex-*
12 *cess, obsolete, and illicit stocks of MANPADSs world-*
13 *wide.*

14 (4) REPORTING AND BRIEFING REQUIREMENT.—

15 (A) PRESIDENT'S REPORT.—*Not later than*
16 *180 days after the date of enactment of this Act,*
17 *the President shall transmit to the appropriate*
18 *congressional committees a report that contains*
19 *a detailed description of the status of diplomatic*
20 *efforts under paragraphs (1), (2), and (3) and of*
21 *efforts by the appropriate United States agencies*
22 *to comply with the recommendations of the Gen-*
23 *eral Accounting Office set forth in its report*
24 *GAO-04-519, entitled "Nonproliferation: Fur-*
25 *ther Improvements Needed in U.S. Efforts to*

1 *Counter Threats from Man-Portable Air Defense*
2 *Systems”.*

3 (B) *ANNUAL BRIEFINGS.*—*Annually after*
4 *the date of submission of the report under sub-*
5 *paragraph (A) and until completion of the diplo-*
6 *matic and compliance efforts referred to in sub-*
7 *paragraph (A), the Secretary of State shall brief*
8 *the appropriate congressional committees on the*
9 *status of such efforts.*

10 (b) *FAA AIRWORTHINESS CERTIFICATION OF MISSILE*
11 *DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.*—

12 (1) *IN GENERAL.*—*As soon as practicable, but*
13 *not later than the date of completion of Phase II of*
14 *the Department of Homeland Security’s counter-man-*
15 *portable air defense system (MANPADS) development*
16 *and demonstration program, the Administrator of the*
17 *Federal Aviation Administration shall establish a*
18 *process for conducting airworthiness and safety cer-*
19 *tification of missile defense systems for commercial*
20 *aircraft certified as effective and functional by the*
21 *Department of Homeland Security. The process shall*
22 *require a certification by the Administrator that such*
23 *systems can be safely integrated into aircraft systems*
24 *and ensure airworthiness and aircraft system integ-*
25 *ity.*

1 (2) *CERTIFICATION ACCEPTANCE.*—Under the
2 process, the Administrator shall accept the certifi-
3 cation of the Department of Homeland Security that
4 a missile defense system is effective and functional to
5 defend commercial aircraft against MANPADSs.

6 (3) *EXPEDITIOUS CERTIFICATION.*—Under the
7 process, the Administrator shall expedite the air-
8 worthiness and safety certification of missile defense
9 systems for commercial aircraft certified by the De-
10 partment of Homeland Security.

11 (4) *REPORTS.*—Not later than 90 days after the
12 first airworthiness and safety certification for a mis-
13 sile defense system for commercial aircraft is issued
14 by the Administrator, and annually thereafter until
15 December 31, 2008, the Federal Aviation Administra-
16 tion shall transmit to the Committee on Transpor-
17 tation and Infrastructure of the House of Representa-
18 tives and the Committee on Commerce, Science, and
19 Transportation of the Senate a report that contains
20 a detailed description of each airworthiness and safe-
21 ty certification issued for a missile defense system for
22 commercial aircraft.

23 (c) *PROGRAMS TO REDUCE MANPADS.*—

24 (1) *IN GENERAL.*—The President is encouraged
25 to pursue strong programs to reduce the number of

1 *MANPADSs worldwide so that fewer MANPADSs*
2 *will be available for trade, proliferation, and sale.*

3 (2) *REPORTING AND BRIEFING REQUIRE-*
4 *MENTS.—Not later than 180 days after the date of en-*
5 *actment of this Act, the President shall transmit to*
6 *the appropriate congressional committees a report*
7 *that contains a detailed description of the status of*
8 *the programs being pursued under subsection (a). An-*
9 *nually thereafter until the programs are no longer*
10 *needed, the Secretary of State shall brief the appro-*
11 *priate congressional committees on the status of pro-*
12 *grams.*

13 (3) *FUNDING.—There are authorized to be ap-*
14 *propriated such sums as may be necessary to carry*
15 *out this section.*

16 (d) *MANPADS VULNERABILITY ASSESSMENTS RE-*
17 *PORT.—*

18 (1) *IN GENERAL.—Not later than one year after*
19 *the date of enactment of this Act, the Secretary of*
20 *Homeland Security shall transmit to the Committee*
21 *on Transportation and Infrastructure of the House of*
22 *Representatives and the Committee on Commerce,*
23 *Science, and Transportation of the Senate a report*
24 *describing the Department of Homeland Security's*

1 *plans to secure airports and the aircraft arriving and*
2 *departing from airports against MANPADS attacks.*

3 (2) *MATTERS TO BE ADDRESSED.*—*The Sec-*
4 *retary’s report shall address, at a minimum, the fol-*
5 *lowing:*

6 (A) *The status of the Department’s efforts to*
7 *conduct MANPADS vulnerability assessments*
8 *at United States airports at which the Depart-*
9 *ment is conducting assessments.*

10 (B) *How intelligence is shared between the*
11 *United States intelligence agencies and Federal,*
12 *State, and local law enforcement to address the*
13 *MANPADS threat and potential ways to im-*
14 *prove such intelligence sharing.*

15 (C) *Contingency plans that the Department*
16 *has developed in the event that it receives intel-*
17 *ligence indicating a high threat of a MANPADS*
18 *attack on aircraft at or near United States air-*
19 *ports.*

20 (D) *The feasibility and effectiveness of im-*
21 *plementing public education and neighborhood*
22 *watch programs in areas surrounding United*
23 *States airports in cases in which intelligence re-*
24 *ports indicate there is a high risk of MANPADS*
25 *attacks on aircraft.*

1 (E) *Any other issues that the Secretary*
2 *deems relevant.*

3 (3) *FORMAT.*—*The report required by this sub-*
4 *section may be submitted in a classified format.*

5 (e) *DEFINITIONS.*—*In this section, the following defini-*
6 *tions apply:*

7 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
8 *TEES.*—*The term “appropriate congressional commit-*
9 *tees” means—*

10 (A) *the Committee on Armed Services, the*
11 *Committee on International Relations, and the*
12 *Committee on Transportation and Infrastructure*
13 *of the House of Representatives; and*

14 (B) *the Committee on Armed Services, the*
15 *Committee on Foreign Relations, and the Com-*
16 *mittee on Commerce, Science, and Transpor-*
17 *tation of the Senate.*

18 (2) *MANPADS.*—*The term “MANPADS”*
19 *means—*

20 (A) *a surface-to-air missile system designed*
21 *to be man-portable and carried and fired by a*
22 *single individual; and*

23 (B) *any other surface-to-air missile system*
24 *designed to be operated and fired by more than*

1 *one individual acting as a crew and portable by*
2 *several individuals.*

3 ***Subtitle H—Improving Inter-***
4 ***national Standards and Co-***
5 ***operation to Fight Terrorist Fi-***
6 ***nancing***

7 ***SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS***
8 ***IN MULTILATERAL ORGANIZATIONS.***

9 *(a) FINDINGS.—The Congress finds as follows:*

10 *(1) The global war on terrorism and cutting off*
11 *terrorist financing is a policy priority for the United*
12 *States and its partners, working bilaterally and mul-*
13 *tilaterally through the United Nations (UN), the UN*
14 *Security Council and its Committees, such as the*
15 *1267 and 1373 Committees, the Financial Action*
16 *Task Force (FATF) and various international finan-*
17 *cial institutions, such as the International Monetary*
18 *Fund (IMF), the International Bank for Reconstruc-*
19 *tion and Development (IBRD), and the regional mul-*
20 *tilateral development banks, and other multilateral*
21 *fora.*

22 *(2) The Secretary of the Treasury has engaged*
23 *the international financial community in the global*
24 *fight against terrorist financing. Specifically, the De-*
25 *partment of the Treasury helped redirect the focus of*

1 *the Financial Action Task Force on the new threat*
2 *posed by terrorist financing to the international fi-*
3 *nancial system, resulting in the establishment of the*
4 *FATF's Eight Special Recommendations on Terrorist*
5 *Financing as the international standard on com-*
6 *bating terrorist financing. The Secretary of the Treas-*
7 *ury has engaged the Group of Seven and the Group*
8 *of Twenty Finance Ministers to develop action plans*
9 *to curb the financing of terror. In addition, other eco-*
10 *nomic and regional fora, such as the Asia-Pacific*
11 *Economic Cooperation (APEC) Forum, the Western*
12 *Hemisphere Financial Ministers, have been used to*
13 *marshal political will and actions in support of coun-*
14 *tering the financing of terrorism (CFT) standards.*

15 (3) *FATF's Forty Recommendations on Money*
16 *Laundering and the Eight Special Recommendations*
17 *on Terrorist Financing are the recognized global*
18 *standards for fighting money laundering and terrorist*
19 *financing. The FATF has engaged in an assessment*
20 *process for jurisdictions based on their compliance*
21 *with these standards.*

22 (4) *In March 2004, the IMF and IBRD Boards*
23 *agreed to make permanent a pilot program of collabo-*
24 *ration with the FATF to assess global compliance*
25 *with the FATF Forty Recommendations on Money*

1 *Laundering and the Eight Special Recommendations*
2 *on Terrorist Financing. As a result, anti-money laun-*
3 *dering (AML) and combating the financing of ter-*
4 *rorism (CFT) assessments are now a regular part of*
5 *their Financial Sector Assessment Program (FSAP)*
6 *and Offshore Financial Center assessments, which*
7 *provide for a comprehensive analysis of the strength*
8 *of a jurisdiction's financial system. These reviews as-*
9 *sess potential systemic vulnerabilities, consider sec-*
10 *toral development needs and priorities, and review the*
11 *state of implementation of and compliance with key*
12 *financial codes and regulatory standards, among*
13 *them the AML and CFT standards.*

14 (5) *To date, 70 FSAPs have been conducted, with*
15 *over 24 of those incorporating AML and CFT assess-*
16 *ments. The international financial institutions*
17 *(IFIs), the FATF, and the FATF-style regional bodies*
18 *together are expected to assess AML and CFT regimes*
19 *in up to 40 countries or jurisdictions per year. This*
20 *will help countries and jurisdictions identify defi-*
21 *ciencies in their AML and CFT regimes and help*
22 *focus technical assistance (TA) efforts.*

23 (6) *TA programs from the United States and*
24 *other nations, coordinated with the Department of*
25 *State and other departments and agencies, are play-*

1 *ing an important role in helping countries and juris-*
2 *dictions address shortcomings in their AML and CFT*
3 *regimes and bringing their regimes into conformity*
4 *with international standards. Training is coordinated*
5 *within the United States Government, which leverages*
6 *multilateral organizations and bodies and inter-*
7 *national financial institutions to internationalize the*
8 *conveyance of technical assistance.*

9 *(7) In fulfilling its duties in advancing incorpo-*
10 *ration of AML and CFT standards into the IFIs as*
11 *part of the IFIs' work on protecting the integrity of*
12 *the international monetary system, the Department of*
13 *the Treasury, under the guidance of the Secretary of*
14 *the Treasury, has effectively brought together all of the*
15 *key United States Government agencies. In par-*
16 *ticular, United States Government agencies continue*
17 *to work together to foster broad support for this im-*
18 *portant undertaking in various multilateral fora, and*
19 *United States Government agencies recognize the need*
20 *for close coordination and communication within our*
21 *own government.*

22 *(b) SENSE OF THE CONGRESS.—It is the sense of the*
23 *Congress that the Secretary of the Treasury should continue*
24 *to promote the dissemination of international AML and*
25 *CFT standards, and to press for full implementation of the*

1 *FATF 40 + 8 Recommendations by all countries in order*
2 *to curb financial risks and hinder terrorist financing*
3 *around the globe.*

4 **SEC. 4112. EXPANDED REPORTING AND TESTIMONY RE-**
5 **QUIREMENTS FOR THE SECRETARY OF THE**
6 **TREASURY.**

7 (a) *REPORTING REQUIREMENTS.*—Section 1503(a) of
8 *the International Financial Institutions Act (22 U.S.C.*
9 *2620-2(a)) is amended by adding at the end the following*
10 *new paragraph:*

11 “(15) *Work with the International Monetary*
12 *Fund to—*

13 “(A) *foster strong global anti-money laun-*
14 *dering (AML) and combat the financing of ter-*
15 *rorism (CFT) regimes;*

16 “(B) *ensure that country performance under*
17 *the Financial Action Task Force anti-money*
18 *laundering and counter-terrorist financing*
19 *standards is effectively and comprehensively*
20 *monitored;*

21 “(C) *ensure note is taken of AML and CFT*
22 *issues in Article IV reports, International Mone-*
23 *tary Fund programs, and other regular reviews*
24 *of country progress;*

1 “(D) ensure that effective AML and CFT re-
2 regimes are considered to be indispensable elements
3 of sound financial systems; and

4 “(E) emphasize the importance of sound
5 AML and CFT regimes to global growth and de-
6 velopment.”.

7 (b) *TESTIMONY*.—Section 1705(b) of such Act (22
8 U.S.C. 262r-4(b)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (2);

11 (2) by striking the period at the end of para-
12 graph (3) and inserting “; and” and

13 (3) by adding at the end the following:

14 “(4) the status of implementation of inter-
15 national anti-money laundering and counter-terrorist
16 financing standards by the International Monetary
17 Fund, the multilateral development banks, and other
18 multilateral financial policymaking bodies.”.

19 **SEC. 4113. COORDINATION OF UNITED STATES GOVERN-**
20 **MENT EFFORTS.**

21 *The Secretary of the Treasury, or the designee of the*
22 *Secretary as the lead United States Government official to*
23 *the Financial Action Task Force (FATF), shall continue*
24 *to convene the interagency United States Government*
25 *FATF working group. This group, which includes rep-*

1 *representatives from all relevant federal agencies, shall meet*
2 *at least once a year to advise the Secretary on policies to*
3 *be pursued by the United States regarding the development*
4 *of common international AML and CFT standards, to as-*
5 *sess the adequacy and implementation of such standards,*
6 *and to recommend to the Secretary improved or new stand-*
7 *ards as necessary.*

8 **SEC. 4114. DEFINITIONS.**

9 *In this subtitle:*

10 (1) *INTERNATIONAL FINANCIAL INSTITUTIONS.—*

11 *The term “international financial institutions” has*
12 *the meaning given in section 1701(c)(2) of the Inter-*
13 *national Financial Institutions Act.*

14 (2) *FINANCIAL ACTION TASK FORCE.—The term*
15 *“Financial Action Task Force” means the inter-*
16 *national policy-making and standard-setting body*
17 *dedicated to combating money laundering and ter-*
18 *rorist financing that was created by the Group of*
19 *Seven in 1989.*

1 **TITLE V—GOVERNMENT**
2 **RESTRUCTURING**
3 **Subtitle A—Faster and Smarter**
4 **Funding for First Responders**

5 **SEC. 5001. SHORT TITLE.**

6 *This subtitle may be cited as the “Faster and Smarter*
7 *Funding for First Responders Act of 2004”.*

8 **SEC. 5002. FINDINGS.**

9 *The Congress finds the following:*

10 (1) *In order to achieve its objective of mini-*
11 *mizing the damage, and assisting in the recovery,*
12 *from terrorist attacks, the Department of Homeland*
13 *Security must play a leading role in assisting com-*
14 *munities to reach the level of preparedness they need*
15 *to respond to a terrorist attack.*

16 (2) *First responder funding is not reaching the*
17 *men and women of our Nation’s first response teams*
18 *quickly enough, and sometimes not at all.*

19 (3) *To reform the current bureaucratic process so*
20 *that homeland security dollars reach the first respond-*
21 *ers who need it most, it is necessary to clarify and*
22 *consolidate the authority and procedures of the De-*
23 *partment of Homeland Security that support first re-*
24 *sponders.*

1 (4) *Ensuring adequate resources for the new na-*
2 *tional mission of homeland security, without degrad-*
3 *ing the ability to address effectively other types of*
4 *major disasters and emergencies, requires a discrete*
5 *and separate grant making process for homeland se-*
6 *curity funds for first response to terrorist acts, on the*
7 *one hand, and for first responder programs designed*
8 *to meet pre-September 11 priorities, on the other.*

9 (5) *While a discrete homeland security grant*
10 *making process is necessary to ensure proper focus on*
11 *the unique aspects of terrorism prevention, prepared-*
12 *ness, and response, it is essential that State and local*
13 *strategies for utilizing such grants be integrated, to*
14 *the greatest extent practicable, with existing State*
15 *and local emergency management plans.*

16 (6) *Homeland security grants to first responders*
17 *must be based on the best intelligence concerning the*
18 *capabilities and intentions of our terrorist enemies,*
19 *and that intelligence must be used to target resources*
20 *to the Nation's greatest threats, vulnerabilities, and*
21 *consequences.*

22 (7) *The Nation's first response capabilities will*
23 *be improved by sharing resources, training, planning,*
24 *personnel, and equipment among neighboring juris-*
25 *dictions through mutual aid agreements and regional*

1 *cooperation. Such regional cooperation should be sup-*
2 *ported, where appropriate, through direct grants from*
3 *the Department of Homeland Security.*

4 *(8) An essential prerequisite to achieving the Na-*
5 *tion's homeland security objectives for first responders*
6 *is the establishment of well-defined national goals for*
7 *terrorism preparedness. These goals should delineate*
8 *the essential capabilities that every jurisdiction in the*
9 *United States should possess or to which it should*
10 *have access.*

11 *(9) A national determination of essential capa-*
12 *bilities is needed to identify levels of State and local*
13 *government terrorism preparedness, to determine the*
14 *nature and extent of State and local first responder*
15 *needs, to identify the human and financial resources*
16 *required to fulfill them, and to direct funding to meet*
17 *those needs and to measure preparedness levels on a*
18 *national scale.*

19 *(10) To facilitate progress in achieving, main-*
20 *taining, and enhancing essential capabilities for*
21 *State and local first responders, the Department of*
22 *Homeland Security should seek to allocate homeland*
23 *security funding for first responders to meet nation-*
24 *wide needs.*

1 (11) *Private sector resources and citizen volun-*
2 *teers can perform critical functions in assisting in*
3 *preventing and responding to terrorist attacks, and*
4 *should be integrated into State and local planning ef-*
5 *forts to ensure that their capabilities and roles are*
6 *understood, so as to provide enhanced State and local*
7 *operational capability and surge capacity.*

8 (12) *Public-private partnerships, such as the*
9 *partnerships between the Business Executives for Na-*
10 *tional Security and the States of New Jersey and*
11 *Georgia, can be useful to identify and coordinate pri-*
12 *vate sector support for State and local first respond-*
13 *ers. Such models should be expanded to cover all*
14 *States and territories.*

15 (13) *An important aspect of essential capabili-*
16 *ties is measurability, so that it is possible to deter-*
17 *mine how prepared a State or local government is*
18 *now, and what additional steps it needs to take, in*
19 *order to respond to acts of terrorism.*

20 (14) *The Department of Homeland Security*
21 *should establish, publish, and regularly update na-*
22 *tional voluntary consensus standards for both equip-*
23 *ment and training, in cooperation with both public*
24 *and private sector standard setting organizations, to*
25 *assist State and local governments in obtaining the*

1 “(2) *COVERED GRANT*.—The term ‘covered grant’
2 *means any grant to which this title applies under sec-*
3 *tion 1802.*

4 “(3) *DIRECTLY ELIGIBLE TRIBE*.—The term ‘di-
5 *rectly eligible tribe’ means any Indian tribe or con-*
6 *sortium of Indian tribes that—*

7 “(A) *meets the criteria for inclusion in the*
8 *qualified applicant pool for Self-Governance that*
9 *are set forth in section 402(c) of the Indian Self-*
10 *Determination and Education Assistance Act (25*
11 *U.S.C. 458bb(c));*

12 “(B) *employs at least 10 full-time personnel*
13 *in a law enforcement or emergency response*
14 *agency with the capacity to respond to calls for*
15 *law enforcement or emergency services; and*

16 “(C)(i) *is located on, or within 5 miles of,*
17 *an international border or waterway;*

18 “(ii) *is located within 5 miles of a facility*
19 *within a critical infrastructure sector identified*
20 *in section 1803(c)(2);*

21 “(iii) *is located within or contiguous to one*
22 *of the 50 largest metropolitan statistical areas in*
23 *the United States; or*

1 “(iv) has more than 1,000 square miles of
2 Indian country, as that term is defined in sec-
3 tion 1151 of title 18, United States Code.

4 “(4) *ELEVATIONS IN THE THREAT ALERT*
5 *LEVEL.*—The term ‘elevations in the threat alert level’
6 means any designation (including those that are less
7 than national in scope) that raises the homeland secu-
8 rity threat level to either the highest or second highest
9 threat level under the Homeland Security Advisory
10 System referred to in section 201(d)(7).

11 “(5) *EMERGENCY PREPAREDNESS.*—The term
12 ‘emergency preparedness’ shall have the same mean-
13 ing that term has under section 602 of the Robert T.
14 Stafford Disaster Relief and Emergency Assistance
15 Act (42 U.S.C. 5195a).

16 “(6) *ESSENTIAL CAPABILITIES.*—The term ‘es-
17 sential capabilities’ means the levels, availability, and
18 competence of emergency personnel, planning, train-
19 ing, and equipment across a variety of disciplines
20 needed to effectively and efficiently prevent, prepare
21 for, and respond to acts of terrorism consistent with
22 established practices.

23 “(7) *FIRST RESPONDER.*—The term ‘first re-
24 sponder’ shall have the same meaning as the term
25 ‘emergency response provider’.

1 “(8) *INDIAN TRIBE*.—The term ‘Indian tribe’
2 means any Indian tribe, band, nation, or other orga-
3 nized group or community, including any Alaskan
4 Native village or regional or village corporation as
5 defined in or established pursuant to the Alaskan Na-
6 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
7 which is recognized as eligible for the special pro-
8 grams and services provided by the United States to
9 Indians because of their status as Indians.

10 “(9) *REGION*.—The term ‘region’ means—

11 “(A) any geographic area consisting of all
12 or parts of 2 or more contiguous States, counties,
13 municipalities, or other local governments that
14 have a combined population of at least 1,650,000
15 or have an area of not less than 20,000 square
16 miles, and that, for purposes of an application
17 for a covered grant, is represented by 1 or more
18 governments or governmental agencies within
19 such geographic area, and that is established by
20 law or by agreement of 2 or more such govern-
21 ments or governmental agencies in a mutual aid
22 agreement; or

23 “(B) any other combination of contiguous
24 local government units (including such a com-
25 bination established by law or agreement of two

1 *or more governments or governmental agencies*
2 *in a mutual aid agreement) that is formally cer-*
3 *tified by the Secretary as a region for purposes*
4 *of this Act with the consent of—*

5 *“(i) the State or States in which they*
6 *are located, including a multi-State entity*
7 *established by a compact between two or*
8 *more States; and*

9 *“(ii) the incorporated municipalities,*
10 *counties, and parishes that they encompass.*

11 *“(10) TASK FORCE.—The term ‘Task Force’*
12 *means the Task Force on Essential Capabilities for*
13 *First Responders established under section 1804.*

14 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
15 **SPONDERS.**

16 *“(a) COVERED GRANTS.—This title applies to grants*
17 *provided by the Department to States, regions, or directly*
18 *eligible tribes for the primary purpose of improving the*
19 *ability of first responders to prevent, prepare for, respond*
20 *to, or mitigate threatened or actual terrorist attacks, espe-*
21 *cially those involving weapons of mass destruction, admin-*
22 *istered under the following:*

23 *“(1) STATE HOMELAND SECURITY GRANT PRO-*
24 *GRAM.—The State Homeland Security Grant Pro-*

1 *gram of the Department, or any successor to such*
2 *grant program.*

3 “(2) *URBAN AREA SECURITY INITIATIVE.—The*
4 *Urban Area Security Initiative of the Department, or*
5 *any successor to such grant program.*

6 “(3) *LAW ENFORCEMENT TERRORISM PREVEN-*
7 *TION PROGRAM.—The Law Enforcement Terrorism*
8 *Prevention Program of the Department, or any suc-*
9 *cessor to such grant program.*

10 “(4) *CITIZEN CORPS PROGRAM.—The Citizen*
11 *Corps Program of the Department, or any successor*
12 *to such grant program.*

13 “(b) *EXCLUDED PROGRAMS.—This title does not apply*
14 *to or otherwise affect the following Federal grant programs*
15 *or any grant under such a program:*

16 “(1) *NONDEPARTMENT PROGRAMS.—Any Federal*
17 *grant program that is not administered by the De-*
18 *partment.*

19 “(2) *FIRE GRANT PROGRAMS.—The fire grant*
20 *programs authorized by sections 33 and 34 of the*
21 *Federal Fire Prevention and Control Act of 1974 (15*
22 *U.S.C. 2229, 2229a).*

23 “(3) *EMERGENCY MANAGEMENT PLANNING AND*
24 *ASSISTANCE ACCOUNT GRANTS.—The Emergency*
25 *Management Performance Grant program and the*

1 *Urban Search and Rescue Grants program authorized*
2 *by title VI of the Robert T. Stafford Disaster Relief*
3 *and Emergency Assistance Act (42 U.S.C. 5195 et*
4 *seq.); the Departments of Veterans Affairs and Hous-*
5 *ing and Urban Development, and Independent Agen-*
6 *cies Appropriations Act, 2000 (113 Stat. 1047 et*
7 *seq.); and the Earthquake Hazards Reduction Act of*
8 *1977 (42 U.S.C. 7701 et seq.).*

9 **“SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPOND-**
10 **ERS.**

11 *“(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—*

12 *“(1) IN GENERAL.—For purposes of covered*
13 *grants, the Secretary shall establish clearly defined es-*
14 *sential capabilities for State and local government*
15 *preparedness for terrorism, in consultation with—*

16 *“(A) the Task Force on Essential Capabili-*
17 *ties for First Responders established under sec-*
18 *tion 1804;*

19 *“(B) the Under Secretaries for Emergency*
20 *Preparedness and Response, Border and Trans-*
21 *portation Security, Information Analysis and*
22 *Infrastructure Protection, and Science and Tech-*
23 *nology, and the Director of the Office for Domes-*
24 *tic Preparedness;*

1 “(C) *the Secretary of Health and Human*
2 *Services;*

3 “(D) *other appropriate Federal agencies;*

4 “(E) *State and local first responder agen-*
5 *cies and officials; and*

6 “(F) *consensus-based standard making or-*
7 *ganizations responsible for setting standards rel-*
8 *evant to the first responder community.*

9 “(2) *DEADLINES.—The Secretary shall—*

10 “(A) *establish essential capabilities under*
11 *paragraph (1) within 30 days after receipt of the*
12 *report under section 1804(b); and*

13 “(B) *regularly update such essential capa-*
14 *bilities as necessary, but not less than every 3*
15 *years.*

16 “(3) *PROVISION OF ESSENTIAL CAPABILITIES.—*
17 *The Secretary shall ensure that a detailed description*
18 *of the essential capabilities established under para-*
19 *graph (1) is provided promptly to the States and to*
20 *the Congress. The States shall make the essential ca-*
21 *pabilities available as necessary and appropriate to*
22 *local governments within their jurisdictions.*

23 “(b) *OBJECTIVES.—The Secretary shall ensure that es-*
24 *sential capabilities established under subsection (a)(1) meet*
25 *the following objectives:*

1 “(1) *SPECIFICITY.*—*The determination of essen-*
2 *tial capabilities specifically shall describe the train-*
3 *ing, planning, personnel, and equipment that dif-*
4 *ferent types of communities in the Nation should pos-*
5 *sess, or to which they should have access, in order to*
6 *meet the Department’s goals for terrorism prepared-*
7 *ness based upon—*

8 “(A) *the most current risk assessment avail-*
9 *able by the Directorate for Information Analysis*
10 *and Infrastructure Protection of the threats of*
11 *terrorism against the United States;*

12 “(B) *the types of threats, vulnerabilities, ge-*
13 *ography, size, and other factors that the Sec-*
14 *retary has determined to be applicable to each*
15 *different type of community; and*

16 “(C) *the principles of regional coordination*
17 *and mutual aid among State and local govern-*
18 *ments.*

19 “(2) *FLEXIBILITY.*—*The establishment of essen-*
20 *tial capabilities shall be sufficiently flexible to allow*
21 *State and local government officials to set priorities*
22 *based on particular needs, while reaching nationally*
23 *determined terrorism preparedness levels within a*
24 *specified time period.*

1 “(3) *MEASURABILITY.*—*The establishment of es-*
2 *sential capabilities shall be designed to enable meas-*
3 *urement of progress towards specific terrorism pre-*
4 *paredness goals.*

5 “(4) *COMPREHENSIVENESS.*—*The determination*
6 *of essential capabilities for terrorism preparedness*
7 *shall be made within the context of a comprehensive*
8 *State emergency management system.*

9 “(c) *FACTORS TO BE CONSIDERED.*—

10 “(1) *IN GENERAL.*—*In establishing essential ca-*
11 *pabilities under subsection (a)(1), the Secretary spe-*
12 *cifically shall consider the variables of threat, vulner-*
13 *ability, and consequences with respect to the Nation’s*
14 *population (including transient commuting and tour-*
15 *ist populations) and critical infrastructure. Such con-*
16 *sideration shall be based upon the most current risk*
17 *assessment available by the Directorate for Informa-*
18 *tion Analysis and Infrastructure Protection of the*
19 *threats of terrorism against the United States.*

20 “(2) *CRITICAL INFRASTRUCTURE SECTORS.*—*The*
21 *Secretary specifically shall consider threats of ter-*
22 *rorism against the following critical infrastructure*
23 *sectors in all areas of the Nation, urban and rural:*

24 “(A) *Agriculture.*

25 “(B) *Banking and finance.*

1 “(C) *Chemical industries.*

2 “(D) *The defense industrial base.*

3 “(E) *Emergency services.*

4 “(F) *Energy.*

5 “(G) *Food.*

6 “(H) *Government.*

7 “(I) *Postal and shipping.*

8 “(J) *Public health.*

9 “(K) *Information and telecommunications*
10 *networks.*

11 “(L) *Transportation.*

12 “(M) *Water.*

13 *The order in which the critical infrastructure sectors*
14 *are listed in this paragraph shall not be construed as*
15 *an order of priority for consideration of the impor-*
16 *tance of such sectors.*

17 “(3) *TYPES OF THREAT.—The Secretary specifi-*
18 *cally shall consider the following types of threat to the*
19 *critical infrastructure sectors described in paragraph*
20 *(2), and to populations in all areas of the Nation,*
21 *urban and rural:*

22 “(A) *Biological threats.*

23 “(B) *Nuclear threats.*

24 “(C) *Radiological threats.*

25 “(D) *Incendiary threats.*

1 *enactment of this section, which shall be known as the Task*
2 *Force on Essential Capabilities for First Responders.*

3 “(b) *REPORT.*—

4 “(1) *IN GENERAL.*—*The Task Force shall submit*
5 *to the Secretary, not later than 9 months after its es-*
6 *tablishment by the Secretary under subsection (a) and*
7 *every 3 years thereafter, a report on its recommenda-*
8 *tions for essential capabilities for preparedness for*
9 *terrorism.*

10 “(2) *CONTENTS.*—*The report shall—*

11 “(A) *include a priority ranking of essential*
12 *capabilities in order to provide guidance to the*
13 *Secretary and to the Congress on determining*
14 *the appropriate allocation of, and funding levels*
15 *for, first responder needs;*

16 “(B) *set forth a methodology by which any*
17 *State or local government will be able to deter-*
18 *mine the extent to which it possesses or has ac-*
19 *cess to the essential capabilities that States and*
20 *local governments having similar risks should*
21 *obtain;*

22 “(C) *describe the availability of national*
23 *voluntary consensus standards, and whether*
24 *there is a need for new national voluntary con-*

1 *sensus standards, with respect to first responder*
2 *training and equipment;*

3 “(D) *include such additional matters as the*
4 *Secretary may specify in order to further the ter-*
5 *rorism preparedness capabilities of first respond-*
6 *ers; and*

7 “(E) *include such revisions to the contents*
8 *of past reports as are necessary to take into ac-*
9 *count changes in the most current risk assess-*
10 *ment available by the Directorate for Informa-*
11 *tion Analysis and Infrastructure Protection or*
12 *other relevant information as determined by the*
13 *Secretary.*

14 “(3) *CONSISTENCY WITH FEDERAL WORKING*
15 *GROUP.—The Task Force shall ensure that its rec-*
16 *ommendations for essential capabilities are, to the ex-*
17 *tent feasible, consistent with any preparedness goals*
18 *or recommendations of the Federal working group es-*
19 *tablished under section 319F(a) of the Public Health*
20 *Service Act (42 U.S.C. 247d–6(a)).*

21 “(4) *COMPREHENSIVENESS.—The Task Force*
22 *shall ensure that its recommendations regarding es-*
23 *sential capabilities for terrorism preparedness are*
24 *made within the context of a comprehensive State*
25 *emergency management system.*

1 “(5) *PRIOR MEASURES.*—*The Task Force shall*
2 *ensure that its recommendations regarding essential*
3 *capabilities for terrorism preparedness take into ac-*
4 *count any capabilities that State or local officials*
5 *have determined to be essential and have undertaken*
6 *since September 11, 2001, to prevent or prepare for*
7 *terrorist attacks.*

8 “(c) *MEMBERSHIP.*—

9 “(1) *IN GENERAL.*—*The Task Force shall consist*
10 *of 25 members appointed by the Secretary, and shall,*
11 *to the extent practicable, represent a geographic and*
12 *substantive cross section of governmental and non-*
13 *governmental first responder disciplines from the*
14 *State and local levels, including as appropriate—*

15 “(A) *members selected from the emergency*
16 *response field, including fire service and law en-*
17 *forcement, hazardous materials response, emer-*
18 *gency medical services, and emergency manage-*
19 *ment personnel (including public works per-*
20 *sonnel routinely engaged in emergency response);*

21 “(B) *health scientists, emergency and inpa-*
22 *tient medical providers, and public health profes-*
23 *sionals, including experts in emergency health*
24 *care response to chemical, biological, radio-*
25 *logical, and nuclear terrorism, and experts in*

1 *providing mental health care during emergency*
2 *response operations;*

3 “(C) *experts from Federal, State, and local*
4 *governments, and the private sector, representing*
5 *standards-setting organizations, including rep-*
6 *resentation from the voluntary consensus codes*
7 *and standards development community, particu-*
8 *larly those with expertise in first responder dis-*
9 *ciplines; and*

10 “(D) *State and local officials with expertise*
11 *in terrorism preparedness, subject to the condi-*
12 *tion that if any such official is an elected official*
13 *representing one of the two major political par-*
14 *ties, an equal number of elected officials shall be*
15 *selected from each such party.*

16 “(2) *COORDINATION WITH THE DEPARTMENT OF*
17 *HEALTH AND HEALTH SERVICES.—In the selection of*
18 *members of the Task Force who are health profes-*
19 *sionals, including emergency medical professionals,*
20 *the Secretary shall coordinate the selection with the*
21 *Secretary of Health and Human Services.*

22 “(3) *EX OFFICIO MEMBERS.—The Secretary and*
23 *the Secretary of Health and Human Services shall*
24 *each designate one or more officers of their respective*
25 *Departments to serve as ex officio members of the*

1 *Task Force. One of the ex officio members from the*
 2 *Department of Homeland Security shall be the des-*
 3 *ignated officer of the Federal Government for pur-*
 4 *poses of subsection (e) of section 10 of the Federal Ad-*
 5 *visory Committee Act (5 App. U.S.C.).*

6 “(d) *APPLICABILITY OF FEDERAL ADVISORY COM-*
 7 *MITTEE ACT.—Notwithstanding section 871(a), the Federal*
 8 *Advisory Committee Act (5 U.S.C. App.), including sub-*
 9 *sections (a), (b), and (d) of section 10 of such Act, and sec-*
 10 *tion 552b(c) of title 5, United States Code, shall apply to*
 11 *the Task Force.*

12 **“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

13 “(a) *GRANT ELIGIBILITY.—Any State, region, or di-*
 14 *rectly eligible tribe shall be eligible to apply for a covered*
 15 *grant.*

16 “(b) *GRANT CRITERIA.—In awarding covered grants,*
 17 *the Secretary shall assist States and local governments in*
 18 *achieving, maintaining, and enhancing the essential capa-*
 19 *bilities for first responders established by the Secretary*
 20 *under section 1803.*

21 “(c) *STATE HOMELAND SECURITY PLANS.—*

22 “(1) *SUBMISSION OF PLANS.—The Secretary*
 23 *shall require that any State applying to the Secretary*
 24 *for a covered grant must submit to the Secretary a*
 25 *3-year State homeland security plan that—*

1 “(A) demonstrates the extent to which the
2 State has achieved the essential capabilities that
3 apply to the State;

4 “(B) demonstrates the needs of the State
5 necessary to achieve, maintain, or enhance the
6 essential capabilities that apply to the State;

7 “(C) includes a prioritization of such needs
8 based on threat, vulnerability, and consequence
9 assessment factors applicable to the State;

10 “(D) describes how the State intends—

11 “(i) to address such needs at the city,
12 county, regional, tribal, State, and inter-
13 state level, including a precise description of
14 any regional structure the State has estab-
15 lished for the purpose of organizing home-
16 land security preparedness activities funded
17 by covered grants;

18 “(ii) to use all Federal, State, and
19 local resources available for the purpose of
20 addressing such needs; and

21 “(iii) to give particular emphasis to
22 regional planning and cooperation, includ-
23 ing the activities of multijurisdictional
24 planning agencies governed by local offi-

1 cials, both within its jurisdictional borders
2 and with neighboring States;

3 “(E) is developed in consultation with and
4 subject to appropriate comment by local govern-
5 ments within the State; and

6 “(F) with respect to the emergency pre-
7 paredness of first responders, addresses the
8 unique aspects of terrorism as part of a com-
9 prehensive State emergency management plan.

10 “(2) APPROVAL BY SECRETARY.—The Secretary
11 may not award any covered grant to a State unless
12 the Secretary has approved the applicable State home-
13 land security plan.

14 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
15 retary shall ensure that each covered grant is used to sup-
16 plement and support, in a consistent and coordinated man-
17 ner, the applicable State homeland security plan or plans.

18 “(e) APPLICATION FOR GRANT.—

19 “(1) IN GENERAL.—Except as otherwise provided
20 in this subsection, any State, region, or directly eligi-
21 ble tribe may apply for a covered grant by submitting
22 to the Secretary an application at such time, in such
23 manner, and containing such information as is re-
24 quired under this subsection, or as the Secretary may
25 reasonably require.

1 “(2) *DEADLINES FOR APPLICATIONS AND*
2 *AWARDS.*—*All applications for covered grants must be*
3 *submitted at such time as the Secretary may reason-*
4 *ably require for the fiscal year for which they are sub-*
5 *mitted. The Secretary shall award covered grants*
6 *pursuant to all approved applications for such fiscal*
7 *year as soon as practicable, but not later than March*
8 *1 of such year.*

9 “(3) *AVAILABILITY OF FUNDS.*—*All funds award-*
10 *ed by the Secretary under covered grants in a fiscal*
11 *year shall be available for obligation through the end*
12 *of the subsequent fiscal year.*

13 “(4) *MINIMUM CONTENTS OF APPLICATION.*—*The*
14 *Secretary shall require that each applicant include in*
15 *its application, at a minimum—*

16 “(A) *the purpose for which the applicant*
17 *seeks covered grant funds and the reasons why*
18 *the applicant needs the covered grant to meet the*
19 *essential capabilities for terrorism preparedness*
20 *within the State, region, or directly eligible tribe*
21 *to which the application pertains;*

22 “(B) *a description of how, by reference to*
23 *the applicable State homeland security plan or*
24 *plans under subsection (c), the allocation of*
25 *grant funding proposed in the application, in-*

1 *cluding, where applicable, the amount not passed*
2 *through under section 1806(g)(1), would assist in*
3 *fulfilling the essential capabilities specified in*
4 *such plan or plans;*

5 “(C) *a statement of whether a mutual aid*
6 *agreement applies to the use of all or any por-*
7 *tion of the covered grant funds;*

8 “(D) *if the applicant is a State, a descrip-*
9 *tion of how the State plans to allocate the cov-*
10 *ered grant funds to regions, local governments,*
11 *and Indian tribes;*

12 “(E) *if the applicant is a region—*

13 “(i) *a precise geographical description*
14 *of the region and a specification of all par-*
15 *ticipating and nonparticipating local gov-*
16 *ernments within the geographical area com-*
17 *prising that region;*

18 “(ii) *a specification of what govern-*
19 *mental entity within the region will admin-*
20 *ister the expenditure of funds under the cov-*
21 *ered grant; and*

22 “(iii) *a designation of a specific indi-*
23 *vidual to serve as regional liaison;*

1 “(F) a capital budget showing how the ap-
2 plicant intends to allocate and expend the cov-
3 ered grant funds;

4 “(G) if the applicant is a directly eligible
5 tribe, a designation of a specific individual to
6 serve as the tribal liaison; and

7 “(H) a statement of how the applicant in-
8 tends to meet the matching requirement, if any,
9 that applies under section 1806(g)(2).

10 “(5) REGIONAL APPLICATIONS.—

11 “(A) RELATIONSHIP TO STATE APPLICA-
12 TIONS.—A regional application—

13 “(i) shall be coordinated with an ap-
14 plication submitted by the State or States of
15 which such region is a part;

16 “(ii) shall supplement and avoid du-
17 plication with such State application; and

18 “(iii) shall address the unique regional
19 aspects of such region’s terrorism prepared-
20 ness needs beyond those provided for in the
21 application of such State or States.

22 “(B) STATE REVIEW AND SUBMISSION.—To
23 ensure the consistency required under subsection
24 (d) and the coordination required under sub-
25 paragraph (A) of this paragraph, an applicant

1 *that is a region must submit its application to*
2 *each State of which any part is included in the*
3 *region for review and concurrence prior to the*
4 *submission of such application to the Secretary.*
5 *The regional application shall be transmitted to*
6 *the Secretary through each such State within 30*
7 *days of its receipt, unless the Governor of such*
8 *a State notifies the Secretary, in writing, that*
9 *such regional application is inconsistent with the*
10 *State's homeland security plan and provides an*
11 *explanation of the reasons therefor.*

12 “(C) *DISTRIBUTION OF REGIONAL*
13 *AWARDS.—If the Secretary approves a regional*
14 *application, then the Secretary shall distribute a*
15 *regional award to the State or States submitting*
16 *the applicable regional application under sub-*
17 *paragraph (B), and each such State shall, not*
18 *later than the end of the 45-day period beginning*
19 *on the date after receiving a regional award,*
20 *pass through to the region all covered grant*
21 *funds or resources purchased with such funds, ex-*
22 *cept those funds necessary for the State to carry*
23 *out its responsibilities with respect to such re-*
24 *gional application; Provided That, in no such*
25 *case shall the State or States pass through to the*

1 *region less than 80 percent of the regional*
2 *award.*

3 “(D) *CERTIFICATIONS REGARDING DIS-*
4 *TRIBUTION OF GRANT FUNDS TO REGIONS.—Any*
5 *State that receives a regional award under sub-*
6 *paragraph (C) shall certify to the Secretary, by*
7 *not later than 30 days after the expiration of the*
8 *period described in subparagraph (C) with re-*
9 *spect to the grant, that the State has made avail-*
10 *able to the region the required funds and re-*
11 *sources in accordance with subparagraph (C).*

12 “(E) *DIRECT PAYMENTS TO REGIONS.—If*
13 *any State fails to pass through a regional award*
14 *to a region as required by subparagraph (C)*
15 *within 45 days after receiving such award and*
16 *does not request or receive an extension of such*
17 *period under section 1806(h)(2), the region may*
18 *petition the Secretary to receive directly the por-*
19 *tion of the regional award that is required to be*
20 *passed through to such region under subpara-*
21 *graph (C).*

22 “(F) *REGIONAL LIAISONS.—A regional liai-*
23 *son designated under paragraph (4)(E)(iii)*
24 *shall—*

1 “(i) coordinate with Federal, State,
2 local, regional, and private officials within
3 the region concerning terrorism prepared-
4 ness;

5 “(ii) develop a process for receiving
6 input from Federal, State, local, regional,
7 and private sector officials within the re-
8 gion to assist in the development of the re-
9 gional application and to improve the re-
10 gion’s access to covered grants; and

11 “(iii) administer, in consultation with
12 State, local, regional, and private officials
13 within the region, covered grants awarded
14 to the region.

15 “(6) TRIBAL APPLICATIONS.—

16 “(A) SUBMISSION TO THE STATE OR
17 STATES.—To ensure the consistency required
18 under subsection (d), an applicant that is a di-
19 rectly eligible tribe must submit its application
20 to each State within the boundaries of which any
21 part of such tribe is located for direct submission
22 to the Department along with the application of
23 such State or States.

24 “(B) OPPORTUNITY FOR STATE COMMENT.—
25 Before awarding any covered grant to a directly

1 *eligible tribe, the Secretary shall provide an op-*
2 *portunity to each State within the boundaries of*
3 *which any part of such tribe is located to com-*
4 *ment to the Secretary on the consistency of the*
5 *tribe’s application with the State’s homeland se-*
6 *curity plan. Any such comments shall be sub-*
7 *mitted to the Secretary concurrently with the*
8 *submission of the State and tribal applications.*

9 “(C) *FINAL AUTHORITY.*—*The Secretary*
10 *shall have final authority to determine the con-*
11 *sistency of any application of a directly eligible*
12 *tribe with the applicable State homeland security*
13 *plan or plans, and to approve any application*
14 *of such tribe. The Secretary shall notify each*
15 *State within the boundaries of which any part*
16 *of such tribe is located of the approval of an ap-*
17 *plication by such tribe.*

18 “(D) *TRIBAL LIAISON.*—*A tribal liaison*
19 *designated under paragraph (4)(G) shall—*

20 “(i) *coordinate with Federal, State,*
21 *local, regional, and private officials con-*
22 *cerning terrorism preparedness;*

23 “(ii) *develop a process for receiving*
24 *input from Federal, State, local, regional,*
25 *and private sector officials to assist in the*

1 *development of the application of such tribe*
2 *and to improve the tribe's access to covered*
3 *grants; and*

4 “(iii) *administer, in consultation with*
5 *State, local, regional, and private officials,*
6 *covered grants awarded to such tribe.*

7 “(E) *LIMITATION ON THE NUMBER OF DI-*
8 *RECT GRANTS.—The Secretary may make cov-*
9 *ered grants directly to not more than 20 directly*
10 *eligible tribes per fiscal year.*

11 “(F) *TRIBES NOT RECEIVING DIRECT*
12 *GRANTS.—An Indian tribe that does not receive*
13 *a grant directly under this section is eligible to*
14 *receive funds under a covered grant from the*
15 *State or States within the boundaries of which*
16 *any part of such tribe is located, consistent with*
17 *the homeland security plan of the State as de-*
18 *scribed in subsection (c). If a State fails to com-*
19 *ply with section 1806(g)(1), the tribe may re-*
20 *quest payment under section 1806(h)(3) in the*
21 *same manner as a local government.*

22 “(7) *EQUIPMENT STANDARDS.—If an applicant*
23 *for a covered grant proposes to upgrade or purchase,*
24 *with assistance provided under the grant, new equip-*
25 *ment or systems that do not meet or exceed any appli-*

1 *cable national voluntary consensus standards estab-*
2 *lished by the Secretary under section 1807(a), the ap-*
3 *plicant shall include in the application an expla-*
4 *nation of why such equipment or systems will serve*
5 *the needs of the applicant better than equipment or*
6 *systems that meet or exceed such standards.*

7 “(f) *FIRST RESPONDER GRANTS BOARD.*—

8 “(1) *ESTABLISHMENT OF BOARD.*—*The Sec-*
9 *retary shall establish a First Responder Grants*
10 *Board, consisting of—*

11 “(A) *the Secretary;*

12 “(B) *the Under Secretary for Emergency*
13 *Preparedness and Response;*

14 “(C) *the Under Secretary for Border and*
15 *Transportation Security;*

16 “(D) *the Under Secretary for Information*
17 *Analysis and Infrastructure Protection;*

18 “(E) *the Under Secretary for Science and*
19 *Technology; and*

20 “(F) *the Director of the Office for Domestic*
21 *Preparedness.*

22 “(2) *CHAIRMAN.*—

23 “(A) *IN GENERAL.*—*The Secretary shall be*
24 *the Chairman of the Board.*

1 “(B) *EXERCISE OF AUTHORITIES BY DEP-*
2 *UTY SECRETARY.*—*The Deputy Secretary of*
3 *Homeland Security may exercise the authorities*
4 *of the Chairman, if the Secretary so directs.*

5 “(3) *RANKING OF GRANT APPLICATIONS.*—

6 “(A) *PRIORITIZATION OF GRANTS.*—*The*
7 *Board—*

8 “(i) *shall evaluate and annually*
9 *prioritize all pending applications for cov-*
10 *ered grants based upon the degree to which*
11 *they would, by achieving, maintaining, or*
12 *enhancing the essential capabilities of the*
13 *applicants on a nationwide basis, lessen the*
14 *threat to, vulnerability of, and consequences*
15 *for persons and critical infrastructure; and*

16 “(ii) *in evaluating the threat to per-*
17 *sons and critical infrastructure for purposes*
18 *of prioritizing covered grants, shall give*
19 *greater weight to threats of terrorism based*
20 *on their specificity and credibility, includ-*
21 *ing any pattern of repetition.*

22 “(B) *MINIMUM AMOUNTS.*—*After evaluating*
23 *and prioritizing grant applications under sub-*
24 *paragraph (A), the Board shall ensure that, for*
25 *each fiscal year—*

1 “(i) each of the States, other than the
2 Virgin Islands, American Samoa, Guam,
3 and the Northern Mariana Islands, that has
4 an approved State homeland security plan
5 receives no less than 0.25 percent of the
6 funds available for covered grants for that
7 fiscal year for purposes of implementing its
8 homeland security plan in accordance with
9 the prioritization of needs under subsection
10 (c)(1)(C);

11 “(ii) each of the States, other than the
12 Virgin Islands, American Samoa, Guam,
13 and the Northern Mariana Islands, that has
14 an approved State homeland security plan
15 and that meets one or both of the additional
16 high-risk qualifying criteria under subpara-
17 graph (C) receives no less than 0.45 percent
18 of the funds available for covered grants for
19 that fiscal year for purposes of imple-
20 menting its homeland security plan in ac-
21 cordance with the prioritization of needs
22 under subsection (c)(1)(C);

23 “(iii) the Virgin Islands, American
24 Samoa, Guam, and the Northern Mariana
25 Islands each receives no less than 0.08 per-

1 *cent of the funds available for covered*
2 *grants for that fiscal year for purposes of*
3 *implementing its approved State homeland*
4 *security plan in accordance with the*
5 *prioritization of needs under subsection*
6 *(c)(1)(C); and*

7 *“(iv) directly eligible tribes collectively*
8 *receive no less than 0.08 percent of the*
9 *funds available for covered grants for such*
10 *fiscal year for purposes of addressing the*
11 *needs identified in the applications of such*
12 *tribes, consistent with the homeland security*
13 *plan of each State within the boundaries of*
14 *which any part of any such tribe is located,*
15 *except that this clause shall not apply with*
16 *respect to funds available for a fiscal year*
17 *if the Secretary receives less than 5 applica-*
18 *tions for such fiscal year from such tribes*
19 *under subsection (e)(6)(A) or does not ap-*
20 *prove at least one such application.*

21 *“(C) ADDITIONAL HIGH-RISK QUALIFYING*
22 *CRITERIA.—For purposes of subparagraph*
23 *(B)(ii), additional high-risk qualifying criteria*
24 *consist of—*

1 “(i) *having a significant international*
2 *land border; or*

3 “(ii) *adjoining a body of water within*
4 *North America through which an inter-*
5 *national boundary line extends.*

6 “(4) *EFFECT OF REGIONAL AWARDS ON STATE*
7 *MINIMUM.—Any regional award, or portion thereof,*
8 *provided to a State under subsection (e)(5)(C) shall*
9 *not be considered in calculating the minimum State*
10 *award under paragraph (3)(B) of this subsection.*

11 “(5) *FUNCTIONS OF UNDER SECRETARIES.—The*
12 *Under Secretaries referred to in paragraph (1) shall*
13 *seek to ensure that the relevant expertise and input of*
14 *the staff of their directorates are available to and con-*
15 *sidered by the Board.*

16 “**SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIRE-**
17 **MENTS.**

18 “(a) *IN GENERAL.—A covered grant may be used for—*

19 “(1) *purchasing or upgrading equipment, in-*
20 *cluding computer software, to enhance terrorism pre-*
21 *paredness and response;*

22 “(2) *exercises to strengthen terrorism prepared-*
23 *ness and response;*

24 “(3) *training for prevention (including detec-*
25 *tion) of, preparedness for, or response to attacks in-*

1 *volving weapons of mass destruction, including train-*
2 *ing in the use of equipment and computer software;*

3 *“(4) developing or updating response plans;*

4 *“(5) establishing or enhancing mechanisms for*
5 *sharing terrorism threat information;*

6 *“(6) systems architecture and engineering, pro-*
7 *gram planning and management, strategy formula-*
8 *tion and strategic planning, life-cycle systems design,*
9 *product and technology evaluation, and prototype de-*
10 *velopment for terrorism preparedness and response*
11 *purposes;*

12 *“(7) additional personnel costs resulting from—*

13 *“(A) elevations in the threat alert level of*
14 *the Homeland Security Advisory System by the*
15 *Secretary, or a similar elevation in threat alert*
16 *level issued by a State, region, or local govern-*
17 *ment with the approval of the Secretary;*

18 *“(B) travel to and participation in exercises*
19 *and training in the use of equipment and on*
20 *prevention activities;*

21 *“(C) the temporary replacement of per-*
22 *sonnel during any period of travel to and par-*
23 *ticipation in exercises and training in the use of*
24 *equipment and on prevention activities; and*

1 “(D) participation in information, inves-
2 tigative, and intelligence sharing activities spe-
3 cifically related to terrorism prevention;

4 “(8) the costs of equipment (including software)
5 required to receive, transmit, handle, and store classi-
6 fied information;

7 “(9) protecting critical infrastructure against
8 potential attack by the addition of barriers, fences,
9 gates, and other such devices, except that the cost of
10 such measures may not exceed the greater of—

11 “(A) \$1,000,000 per project; or

12 “(B) such greater amount as may be ap-
13 proved by the Secretary, which may not exceed
14 10 percent of the total amount of the covered
15 grant;

16 “(10) the costs of commercially available inter-
17 operable communications equipment (which, where
18 applicable, is based on national, voluntary consensus
19 standards) that the Secretary, in consultation with
20 the Chairman of the Federal Communications Com-
21 mission, deems best suited to facilitate interoper-
22 ability, coordination, and integration between and
23 among emergency communications systems, and that
24 complies with prevailing grant guidance of the De-
25 partment for interoperable communications;

1 “(11) educational curricula development for first
2 responders to ensure that they are prepared for ter-
3 rorist attacks;

4 “(12) training and exercises to assist public ele-
5 mentary and secondary schools in developing and im-
6 plementing programs to instruct students regarding
7 age-appropriate skills to prepare for and respond to
8 an act of terrorism;

9 “(13) paying of administrative expenses directly
10 related to administration of the grant, except that
11 such expenses may not exceed 3 percent of the amount
12 of the grant; and

13 “(14) other appropriate activities as determined
14 by the Secretary.

15 “(b) *PROHIBITED USES.*—Funds provided as a cov-
16 ered grant may not be used—

17 “(1) to supplant State or local funds;

18 “(2) to construct buildings or other physical fa-
19 cilities;

20 “(3) to acquire land; or

21 “(4) for any State or local government cost shar-
22 ing contribution.

23 “(c) *MULTIPLE-PURPOSE FUNDS.*—Nothing in this
24 section shall be construed to preclude State and local gov-
25 ernments from using covered grant funds in a manner that

1 *also enhances first responder preparedness for emergencies*
2 *and disasters unrelated to acts of terrorism, if such use as-*
3 *sists such governments in achieving essential capabilities*
4 *for terrorism preparedness established by the Secretary*
5 *under section 1803.*

6 “(d) *REIMBURSEMENT OF COSTS.*—*In addition to the*
7 *activities described in subsection (a), a covered grant may*
8 *be used to provide a reasonable stipend to paid-on-call or*
9 *volunteer first responders who are not otherwise com-*
10 *pensated for travel to or participation in training covered*
11 *by this section. Any such reimbursement shall not be consid-*
12 *ered compensation for purposes of rendering such a first*
13 *responder an employee under the Fair Labor Standards Act*
14 *of 1938 (29 U.S.C. 201 et seq.).*

15 “(e) *ASSISTANCE REQUIREMENT.*—*The Secretary may*
16 *not request that equipment paid for, wholly or in part, with*
17 *funds provided as a covered grant be made available for*
18 *responding to emergencies in surrounding States, regions,*
19 *and localities, unless the Secretary undertakes to pay the*
20 *costs directly attributable to transporting and operating*
21 *such equipment during such response.*

22 “(f) *FLEXIBILITY IN UNSPENT HOMELAND SECURITY*
23 *GRANT FUNDS.*—*Upon request by the recipient of a covered*
24 *grant, the Secretary may authorize the grantee to transfer*
25 *all or part of funds provided as the covered grant from uses*

1 *specified in the grant agreement to other uses authorized*
2 *under this section, if the Secretary determines that such*
3 *transfer is in the interests of homeland security.*

4 “(g) *STATE, REGIONAL, AND TRIBAL RESPONSIBIL-*
5 *ITIES.—*

6 “(1) *PASS-THROUGH.—The Secretary shall re-*
7 *quire a recipient of a covered grant that is a State*
8 *to obligate or otherwise make available to local gov-*
9 *ernments, first responders, and other local groups, to*
10 *the extent required under the State homeland security*
11 *plan or plans specified in the application for the*
12 *grant, not less than 80 percent of the grant funds, re-*
13 *sources purchased with the grant funds having a*
14 *value equal to at least 80 percent of the amount of*
15 *the grant, or a combination thereof, by not later than*
16 *the end of the 45-day period beginning on the date the*
17 *grant recipient receives the grant funds.*

18 “(2) *COST SHARING.—*

19 “(A) *IN GENERAL.—The Federal share of*
20 *the costs of an activity carried out with a cov-*
21 *ered grant to a State, region, or directly eligible*
22 *tribe awarded after the 2-year period beginning*
23 *on the date of the enactment of this section shall*
24 *not exceed 75 percent.*

1 “(B) *INTERIM RULE.*—*The Federal share of*
2 *the costs of an activity carried out with a cov-*
3 *ered grant awarded before the end of the 2-year*
4 *period beginning on the date of the enactment of*
5 *this section shall be 100 percent.*

6 “(C) *IN-KIND MATCHING.*—*Each recipient of*
7 *a covered grant may meet the matching require-*
8 *ment under subparagraph (A) by making in-*
9 *kind contributions of goods or services that are*
10 *directly linked with the purpose for which the*
11 *grant is made, including, but not limited to, any*
12 *necessary personnel overtime, contractor services,*
13 *administrative costs, equipment fuel and mainte-*
14 *nance, and rental space.*

15 “(3) *CERTIFICATIONS REGARDING DISTRIBUTION*
16 *OF GRANT FUNDS TO LOCAL GOVERNMENTS.*—*Any*
17 *State that receives a covered grant shall certify to the*
18 *Secretary, by not later than 30 days after the expira-*
19 *tion of the period described in paragraph (1) with re-*
20 *spect to the grant, that the State has made available*
21 *for expenditure by local governments, first responders,*
22 *and other local groups the required amount of grant*
23 *funds pursuant to paragraph (1).*

24 “(4) *QUARTERLY REPORT ON HOMELAND SECUR-*
25 *ITY SPENDING.*—*The Federal share described in*

1 paragraph (2)(A) may be increased by up to 2 per-
2 cent for any State, region, or directly eligible tribe
3 that, not later than 30 days after the end of each fis-
4 cal quarter, submits to the Secretary a report on that
5 fiscal quarter. Each such report must include, for
6 each recipient of a covered grant or a pass-through
7 under paragraph (1)—

8 “(A) the amount obligated to that recipient
9 in that quarter;

10 “(B) the amount expended by that recipient
11 in that quarter; and

12 “(C) a summary description of the items
13 purchased by such recipient with such amount.

14 “(5) ANNUAL REPORT ON HOMELAND SECURITY
15 SPENDING.—Each recipient of a covered grant shall
16 submit an annual report to the Secretary not later
17 than 60 days after the end of each fiscal year. Each
18 recipient of a covered grant that is a region must si-
19 multaneously submit its report to each State of which
20 any part is included in the region. Each recipient of
21 a covered grant that is a directly eligible tribe must
22 simultaneously submit its report to each State within
23 the boundaries of which any part of such tribe is lo-
24 cated. Each report must include the following:

1 “(A) *The amount, ultimate recipients, and*
2 *dates of receipt of all funds received under the*
3 *grant during the previous fiscal year.*

4 “(B) *The amount and the dates of disburse-*
5 *ments of all such funds expended in compliance*
6 *with paragraph (1) or pursuant to mutual aid*
7 *agreements or other sharing arrangements that*
8 *apply within the State, region, or directly eligi-*
9 *ble tribe, as applicable, during the previous fiscal*
10 *year.*

11 “(C) *How the funds were utilized by each*
12 *ultimate recipient or beneficiary during the pre-*
13 *ceding fiscal year.*

14 “(D) *The extent to which essential capabili-*
15 *ties identified in the applicable State homeland*
16 *security plan or plans were achieved, main-*
17 *tained, or enhanced as the result of the expendi-*
18 *ture of grant funds during the preceding fiscal*
19 *year.*

20 “(E) *The extent to which essential capabili-*
21 *ties identified in the applicable State homeland*
22 *security plan or plans remain unmet.*

23 “(6) *INCLUSION OF RESTRICTED ANNEXES.—A*
24 *recipient of a covered grant may submit to the Sec-*
25 *retary an annex to the annual report under para-*

1 *graph (5) that is subject to appropriate handling re-*
2 *strictions, if the recipient believes that discussion in*
3 *the report of unmet needs would reveal sensitive but*
4 *unclassified information.*

5 “(7) *PROVISION OF REPORTS.—The Secretary*
6 *shall ensure that each annual report under paragraph*
7 *(5) is provided to the Under Secretary for Emergency*
8 *Preparedness and Response and the Director of the*
9 *Office for Domestic Preparedness.*

10 “(h) *INCENTIVES TO EFFICIENT ADMINISTRATION OF*
11 *HOMELAND SECURITY GRANTS.—*

12 “(1) *PENALTIES FOR DELAY IN PASSING*
13 *THROUGH LOCAL SHARE.—If a recipient of a covered*
14 *grant that is a State fails to pass through to local*
15 *governments, first responders, and other local groups*
16 *funds or resources required by subsection (g)(1) with-*
17 *in 45 days after receiving funds under the grant, the*
18 *Secretary may—*

19 “(A) *reduce grant payments to the grant re-*
20 *ipient from the portion of grant funds that is*
21 *not required to be passed through under sub-*
22 *section (g)(1);*

23 “(B) *terminate payment of funds under the*
24 *grant to the recipient, and transfer the appro-*
25 *priate portion of those funds directly to local*

1 *first responders that were intended to receive*
2 *funding under that grant; or*

3 “(C) *impose additional restrictions or bur-*
4 *dens on the recipient’s use of funds under the*
5 *grant, which may include—*

6 “(i) *prohibiting use of such funds to*
7 *pay the grant recipient’s grant-related over-*
8 *time or other expenses;*

9 “(ii) *requiring the grant recipient to*
10 *distribute to local government beneficiaries*
11 *all or a portion of grant funds that are not*
12 *required to be passed through under sub-*
13 *section (g)(1); or*

14 “(iii) *for each day that the grant re-*
15 *cipient fails to pass through funds or re-*
16 *sources in accordance with subsection*
17 *(g)(1), reducing grant payments to the*
18 *grant recipient from the portion of grant*
19 *funds that is not required to be passed*
20 *through under subsection (g)(1), except that*
21 *the total amount of such reduction may not*
22 *exceed 20 percent of the total amount of the*
23 *grant.*

24 “(2) *EXTENSION OF PERIOD.—The Governor of a*
25 *State may request in writing that the Secretary ex-*

1 *tend the 45-day period under section 1805(e)(5)(E) or*
2 *paragraph (1) for an additional 15-day period. The*
3 *Secretary may approve such a request, and may ex-*
4 *extend such period for additional 15-day periods, if the*
5 *Secretary determines that the resulting delay in pro-*
6 *viding grant funding to the local government entities*
7 *that will receive funding under the grant will not*
8 *have a significant detrimental impact on such enti-*
9 *ties' terrorism preparedness efforts.*

10 “(3) *PROVISION OF NON-LOCAL SHARE TO LOCAL*
11 *GOVERNMENT.—*

12 “(A) *IN GENERAL.—The Secretary may*
13 *upon request by a local government pay to the*
14 *local government a portion of the amount of a*
15 *covered grant awarded to a State in which the*
16 *local government is located, if—*

17 “(i) *the local government will use the*
18 *amount paid to expedite planned enhance-*
19 *ments to its terrorism preparedness as de-*
20 *scribed in any applicable State homeland*
21 *security plan or plans;*

22 “(ii) *the State has failed to pass*
23 *through funds or resources in accordance*
24 *with subsection (g)(1); and*

1 “(iii) the local government complies
2 with subparagraphs (B) and (C).

3 “(B) *SHOWING REQUIRED.*—To receive a
4 payment under this paragraph, a local govern-
5 ment must demonstrate that—

6 “(i) it is identified explicitly as an ul-
7 timate recipient or intended beneficiary in
8 the approved grant application;

9 “(ii) it was intended by the grantee to
10 receive a severable portion of the overall
11 grant for a specific purpose that is identi-
12 fied in the grant application;

13 “(iii) it petitioned the grantee for the
14 funds or resources after expiration of the pe-
15 riod within which the funds or resources
16 were required to be passed through under
17 subsection (g)(1); and

18 “(iv) it did not receive the portion of
19 the overall grant that was earmarked or
20 designated for its use or benefit.

21 “(C) *EFFECT OF PAYMENT.*—Payment of
22 grant funds to a local government under this
23 paragraph—

1 “(i) shall not affect any payment to
2 another local government under this para-
3 graph; and

4 “(ii) shall not prejudice consideration
5 of a request for payment under this para-
6 graph that is submitted by another local
7 government.

8 “(D) DEADLINE FOR ACTION BY SEC-
9 RETARY.—The Secretary shall approve or dis-
10 approve each request for payment under this
11 paragraph by not later than 15 days after the
12 date the request is received by the Department.

13 “(i) REPORTS TO CONGRESS.—The Secretary shall
14 submit an annual report to the Congress by December 31
15 of each year—

16 “(1) describing in detail the amount of Federal
17 funds provided as covered grants that were directed to
18 each State, region, and directly eligible tribe in the
19 preceding fiscal year;

20 “(2) containing information on the use of such
21 grant funds by grantees; and

22 “(3) describing—

23 “(A) the Nation’s progress in achieving,
24 maintaining, and enhancing the essential capa-
25 bilities established under section 1803(a) as a re-

1 *sult of the expenditure of covered grant funds*
2 *during the preceding fiscal year; and*

3 “(B) *an estimate of the amount of expendi-*
4 *tures required to attain across the United States*
5 *the essential capabilities established under sec-*
6 *tion 1803(a).*

7 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**

8 ***EQUIPMENT AND TRAINING.***

9 “(a) *EQUIPMENT STANDARDS.—*

10 “(1) *IN GENERAL.—The Secretary, in consulta-*
11 *tion with the Under Secretaries for Emergency Pre-*
12 *paredness and Response and Science and Technology*
13 *and the Director of the Office for Domestic Prepared-*
14 *ness, shall, not later than 6 months after the date of*
15 *enactment of this section, support the development of,*
16 *promulgate, and update as necessary national vol-*
17 *untary consensus standards for the performance, use,*
18 *and validation of first responder equipment for pur-*
19 *poses of section 1805(e)(7). Such standards—*

20 “(A) *shall be, to the maximum extent prac-*
21 *ticable, consistent with any existing voluntary*
22 *consensus standards;*

23 “(B) *shall take into account, as appro-*
24 *priate, new types of terrorism threats that may*

1 *not have been contemplated when such existing*
2 *standards were developed;*

3 “(C) *shall be focused on maximizing inter-*
4 *operability, interchangeability, durability, flexi-*
5 *bility, efficiency, efficacy, portability, sustain-*
6 *ability, and safety; and*

7 “(D) *shall cover all appropriate uses of the*
8 *equipment.*

9 “(2) *REQUIRED CATEGORIES.—In carrying out*
10 *paragraph (1), the Secretary shall specifically con-*
11 *sider the following categories of first responder equip-*
12 *ment:*

13 “(A) *Thermal imaging equipment.*

14 “(B) *Radiation detection and analysis*
15 *equipment.*

16 “(C) *Biological detection and analysis*
17 *equipment.*

18 “(D) *Chemical detection and analysis*
19 *equipment.*

20 “(E) *Decontamination and sterilization*
21 *equipment.*

22 “(F) *Personal protective equipment, includ-*
23 *ing garments, boots, gloves, and hoods and other*
24 *protective clothing.*

25 “(G) *Respiratory protection equipment.*

1 “(H) *Interoperable communications, includ-*
2 *ing wireless and wireline voice, video, and data*
3 *networks.*

4 “(I) *Explosive mitigation devices and explo-*
5 *sive detection and analysis equipment.*

6 “(J) *Containment vessels.*

7 “(K) *Contaminant-resistant vehicles.*

8 “(L) *Such other equipment for which the*
9 *Secretary determines that national voluntary*
10 *consensus standards would be appropriate.*

11 “(b) *TRAINING STANDARDS.—*

12 “(1) *IN GENERAL.—The Secretary, in consulta-*
13 *tion with the Under Secretaries for Emergency Pre-*
14 *paredness and Response and Science and Technology*
15 *and the Director of the Office for Domestic Prepared-*
16 *ness, shall support the development of, promulgate,*
17 *and regularly update as necessary national voluntary*
18 *consensus standards for first responder training car-*
19 *ried out with amounts provided under covered grant*
20 *programs, that will enable State and local govern-*
21 *ment first responders to achieve optimal levels of ter-*
22 *rorism preparedness as quickly as practicable. Such*
23 *standards shall give priority to providing training*
24 *to—*

1 “(A) enable first responders to prevent, pre-
2 pare for, respond to, and mitigate terrorist
3 threats, including threats from chemical, biologi-
4 cal, nuclear, and radiological weapons and ex-
5 plosive devices capable of inflicting significant
6 human casualties; and

7 “(B) familiarize first responders with the
8 proper use of equipment, including software, de-
9 veloped pursuant to the standards established
10 under subsection (a).

11 “(2) *REQUIRED CATEGORIES.*—In carrying out
12 paragraph (1), the Secretary specifically shall include
13 the following categories of first responder activities:

14 “(A) Regional planning.

15 “(B) Joint exercises.

16 “(C) Intelligence collection, analysis, and
17 sharing.

18 “(D) Emergency notification of affected
19 populations.

20 “(E) Detection of biological, nuclear, radio-
21 logical, and chemical weapons of mass destruc-
22 tion.

23 “(F) Such other activities for which the Sec-
24 retary determines that national voluntary con-
25 sensus training standards would be appropriate.

1 “(3) *CONSISTENCY.*—*In carrying out this sub-*
2 *section, the Secretary shall ensure that such training*
3 *standards are consistent with the principles of emer-*
4 *gency preparedness for all hazards.*

5 “(c) *CONSULTATION WITH STANDARDS ORGANIZA-*
6 *TIONS.*—*In establishing national voluntary consensus*
7 *standards for first responder equipment and training under*
8 *this section, the Secretary shall consult with relevant public*
9 *and private sector groups, including—*

10 “(1) *the National Institute of Standards and*
11 *Technology;*

12 “(2) *the National Fire Protection Association;*

13 “(3) *the National Association of County and*
14 *City Health Officials;*

15 “(4) *the Association of State and Territorial*
16 *Health Officials;*

17 “(5) *the American National Standards Institute;*

18 “(6) *the National Institute of Justice;*

19 “(7) *the Inter-Agency Board for Equipment*
20 *Standardization and Interoperability;*

21 “(8) *the National Public Health Performance*
22 *Standards Program;*

23 “(9) *the National Institute for Occupational*
24 *Safety and Health;*

25 “(10) *ASTM International;*

1 “(11) *the International Safety Equipment Asso-*
2 *ciation;*

3 “(12) *the Emergency Management Accreditation*
4 *Program; and*

5 “(13) *to the extent the Secretary considers ap-*
6 *propriate, other national voluntary consensus stand-*
7 *ards development organizations, other interested Fed-*
8 *eral, State, and local agencies, and other interested*
9 *persons.*

10 “(d) *COORDINATION WITH SECRETARY OF HHS.—In*
11 *establishing any national voluntary consensus standards*
12 *under this section for first responder equipment or training*
13 *that involve or relate to health professionals, including*
14 *emergency medical professionals, the Secretary shall coordi-*
15 *nate activities under this section with the Secretary of*
16 *Health and Human Services.”.*

17 “(b) *DEFINITION OF EMERGENCY RESPONSE PRO-*
18 *VIDERS.—Paragraph (6) of section 2 of the Homeland Secu-*
19 *rity Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6))*
20 *is amended by striking “includes” and all that follows and*
21 *inserting “includes Federal, State, and local governmental*
22 *and nongovernmental emergency public safety, law enforce-*
23 *ment, fire, emergency response, emergency medical (includ-*
24 *ing hospital emergency facilities), and related personnel, or-*
25 *ganizations, agencies, and authorities.”.*

1 (c) *TEMPORARY LIMITATIONS ON APPLICATION.*—

2 (1) *1-YEAR DELAY IN APPLICATION.*—*The fol-*
3 *lowing provisions of title XVIII of the Homeland Se-*
4 *curity Act of 2002, as amended by subsection (a),*
5 *shall not apply during the 1-year period beginning on*
6 *the date of the enactment of this Act:*

7 (A) *Subsections (b), (c), and (e)(4)(A) and*
8 *(B) of section 1805.*

9 (B) *In section 1805(f)(3)(A), the phrase “,*
10 *by enhancing the essential capabilities of the ap-*
11 *plicants,”.*

12 (2) *2-YEAR DELAY IN APPLICATION.*—*The fol-*
13 *lowing provisions of title XVIII of the Homeland Se-*
14 *curity Act of 2002, as amended by subsection (a),*
15 *shall not apply during the 2-year period beginning on*
16 *the date of the enactment of this Act:*

17 (A) *Subparagraphs (D) and (E) of section*
18 *1806(g)(5).*

19 (B) *Section 1806(i)(3).*

20 **SEC. 5004. COORDINATION OF INDUSTRY EFFORTS.**

21 *Section 102(f) of the Homeland Security Act of 2002*
22 *(Public Law 107–296; 6 U.S.C. 112(f)) is amended by strik-*
23 *ing “and” after the semicolon at the end of paragraph (6),*
24 *by striking the period at the end of paragraph (7) and in-*
25 *serting “; and”, and by adding at the end the following:*

1 “(8) coordinating industry efforts, with respect
2 to functions of the Department of Homeland Security,
3 to identify private sector resources and capabilities
4 that could be effective in supplementing Federal,
5 State, and local government agency efforts to prevent
6 or respond to a terrorist attack.”.

7 **SEC. 5005. SUPERSEDED PROVISION.**

8 *This subtitle supersedes section 1014 of Public Law*
9 *107–56.*

10 **SEC. 5006. SENSE OF CONGRESS REGARDING INTEROPER-**
11 **ABLE COMMUNICATIONS.**

12 (a) *FINDING.*—*The Congress finds that—*

13 (1) *many emergency response providers (as de-*
14 *finied under section 2 of the Homeland Security Act*
15 *of 2002 (6 U.S.C. 101), as amended by this Act)*
16 *working in the same jurisdiction or in different juris-*
17 *dictions cannot effectively and efficiently commu-*
18 *nicate with one another; and*

19 (2) *their inability to do so threatens the public’s*
20 *safety and may result in unnecessary loss of lives and*
21 *property.*

22 (b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
23 *gress that interoperable emergency communications systems*
24 *and radios should continue to be deployed as soon as prac-*
25 *ticable for use by the emergency response provider commu-*

1 nity, and that upgraded and new digital communications
2 systems and new digital radios must meet prevailing na-
3 tional, voluntary consensus standards for interoperability.

4 **SEC. 5007. SENSE OF CONGRESS REGARDING CITIZEN**
5 **CORPS COUNCILS.**

6 (a) *FINDING.*—The Congress finds that Citizen Corps
7 councils help to enhance local citizen participation in ter-
8 rorism preparedness by coordinating multiple Citizen
9 Corps programs, developing community action plans, as-
10 sessing possible threats, and identifying local resources.

11 (b) *SENSE OF CONGRESS.*—It is the sense of the Con-
12 gress that individual Citizen Corps councils should seek to
13 enhance the preparedness and response capabilities of all
14 organizations participating in the councils, including by
15 providing funding to as many of their participating orga-
16 nizations as practicable to promote local terrorism pre-
17 paredness programs.

18 **SEC. 5008. STUDY REGARDING NATIONWIDE EMERGENCY**
19 **NOTIFICATION SYSTEM.**

20 (a) *STUDY.*—The Secretary of Homeland Security, in
21 consultation with the heads of other appropriate Federal
22 agencies and representatives of providers and participants
23 in the telecommunications industry, shall conduct a study
24 to determine whether it is cost-effective, efficient, and fea-

1 sible to establish and implement an emergency telephonic
2 alert notification system that will—

3 (1) alert persons in the United States of immi-
4 nent or current hazardous events caused by acts of
5 terrorism; and

6 (2) provide information to individuals regarding
7 appropriate measures that may be undertaken to al-
8 leviate or minimize threats to their safety and welfare
9 posed by such events.

10 (b) *TECHNOLOGIES TO CONSIDER.*—In conducting the
11 study, the Secretary shall consider the use of the telephone,
12 wireless communications, and other existing communica-
13 tions networks to provide such notification.

14 (c) *REPORT.*—Not later than 9 months after the date
15 of the enactment of this Act, the Secretary shall submit to
16 the Congress a report regarding the conclusions of the study.

17 **SEC. 5009. REQUIRED COORDINATION.**

18 The Secretary of Homeland Security shall ensure that
19 there is effective and ongoing coordination of Federal efforts
20 to prevent, prepare for, and respond to acts of terrorism
21 and other major disasters and emergencies among the divi-
22 sions of the Department of Homeland Security, including
23 the Directorate of Emergency Preparedness and Response
24 and the Office for State and Local Government Coordina-
25 tion and Preparedness.

1 **SECTION 5010. STUDY OF EXPANSION OF AREA OF JURIS-**
2 **DICTION OF OFFICE OF NATIONAL CAPITAL**
3 **REGION COORDINATION.**

4 (a) *STUDY.*—*The Secretary of Homeland Security,*
5 *acting through the Director of the Office of National Capital*
6 *Region Coordination, shall conduct a study of the feasibility*
7 *and desirability of modifying the definition of “National*
8 *Capital Region” applicable under section 882 of the Home-*
9 *land Security Act of 2002 to expand the geographic area*
10 *under the jurisdiction of the Office of National Capital Re-*
11 *gion Coordination.*

12 (b) *FACTORS.*—*In conducting the study under sub-*
13 *section (a), the Secretary shall analyze whether expanding*
14 *the geographic area under the jurisdiction of the Office of*
15 *National Region Coordination will—*

16 (1) *promote coordination among State and local*
17 *governments within the Region, including regional*
18 *governing bodies, and coordination of the efforts of*
19 *first responders; and*

20 (2) *enhance the ability of such State and local*
21 *governments and the Federal Government to prevent*
22 *and respond to a terrorist attack within the Region.*

23 (c) *REPORT.*—*Not later than 6 months after the date*
24 *of the enactment of this Act, the Secretary shall submit a*
25 *report to Congress on the study conducted under subsection*
26 *(a), and shall include in the report such recommendations*

1 *(including recommendations for legislation to amend sec-*
2 *tion 882 of the Homeland Security Act of 2002) as the Sec-*
3 *retary considers appropriate.*

4 **SEC. 5011. DIGITAL TELEVISION CONVERSION DEADLINE.**

5 *(a) FINDINGS.—The Congress finds the following:*

6 *(1) Congress granted television broadcasters ad-*
7 *ditional 6 MHz blocks of spectrum to transmit digital*
8 *broadcasts simultaneously with the analog broadcasts*
9 *they transmit on their original 6 megahertz blocks of*
10 *spectrum.*

11 *(2) Section 309(j)(14) of the Communications*
12 *Act of 1934 requires each television broadcaster to*
13 *cease analog transmissions and return 6 megahertz of*
14 *spectrum by December 31, 2006, or once just over 85*
15 *percent of the television households in that broad-*
16 *caster’s market can view digital broadcast television*
17 *channels using a digital television, a digital-to-ana-*
18 *log-converter box, cable service, or satellite service,*
19 *whichever is later.*

20 *(3) Twenty-four megahertz of spectrum currently*
21 *occupied by the television broadcasters has been ear-*
22 *marked for use by first responders once the television*
23 *broadcasters return the spectrum broadcasters cur-*
24 *rently use to provide analog transmissions.*

1 (4) *This spectrum would be ideal to provide first*
2 *responders with interoperable communications chan-*
3 *nels.*

4 (5) *Large parts of the vacated spectrum could be*
5 *auctioned for advanced commercial services, such as*
6 *wireless broadband.*

7 (6) *The “85-percent penetration test” could delay*
8 *the termination of analog television broadcasts and*
9 *the return of spectrum well beyond 2007, hindering*
10 *the use of that spectrum for these important public-*
11 *safety and advanced commercial uses.*

12 (7) *Proposals to require broadcasters to return,*
13 *on a date certain, just the spectrum earmarked for fu-*
14 *ture public-safety use would not adequately resolve the*
15 *identified need for improved public-safety commu-*
16 *nications interoperability. Broadcasters estimate that*
17 *the public-safety only approach would dislocate as*
18 *many as 75 stations, including some in major mar-*
19 *kets, airing major network programming, sometimes*
20 *even in digital form. Unless broadcasters are required*
21 *to return concurrently all the spectrum currently used*
22 *for analog transmissions, it will be exceedingly dif-*
23 *ficult to relocate these 75 stations, which also serve a*
24 *critical public safety function by broadcasting weath-*
25 *er, traffic, disaster, and other safety alerts.*

1 (8) *Proposals to require broadcasters to return,*
 2 *on a date certain, just the spectrum earmarked for fu-*
 3 *ture public-safety use also would neither address the*
 4 *digital television transition in a comprehensive fash-*
 5 *ion nor free valuable spectrum for advanced commer-*
 6 *cial services.*

7 (b) *SENSE OF CONGRESS.—Now, therefore, it is the*
 8 *sense of Congress that section 309(j)(14) of the Communica-*
 9 *tions Act of 1934 should be amended to eliminate the 85-*
 10 *percent penetration test and to require broadcasters to cease*
 11 *analog transmissions at the close of December 31, 2006, so*
 12 *that the spectrum can be returned and repurposed for im-*
 13 *portant public-safety and advanced commercial uses.*

14 ***Subtitle B—Government***
 15 ***Reorganization Authority***

16 ***SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY***
 17 ***REORGANIZATION PLANS.***

18 (a) *REORGANIZATION PLANS.—Section 903(a)(2) of*
 19 *title 5, United States Code, is amended to read as follows:*

20 “(2) *the abolition of all or a part of the func-*
 21 *tions of an agency;”.*

22 (b) *REPEAL OF LIMITATIONS.—Section 905 of title 5,*
 23 *United States Code, is amended to read as follows:*

1 **“§ 905. Limitation on authority**

2 *“The authority to submit reorganization plans under*
3 *this chapter is limited to the following organizational units:*

4 *“(1) The Office of the National Intelligence Di-*
5 *rector.*

6 *“(2) The Central Intelligence Agency.*

7 *“(3) The National Security Agency.*

8 *“(4) The Defense Intelligence Agency.*

9 *“(5) The National Geospatial-Intelligence Agen-*
10 *cy.*

11 *“(6) The National Reconnaissance Office.*

12 *“(7) Other offices within the Department of De-*
13 *fense for the collection of specialized national intel-*
14 *ligence through reconnaissance programs.*

15 *“(8) The intelligence elements of the Army, the*
16 *Navy, the Air Force, the Marine Corps, the Federal*
17 *Bureau of Investigation, and the Department of En-*
18 *ergy.*

19 *“(9) The Bureau of Intelligence and Research of*
20 *the Department of State.*

21 *“(10) The Office of Intelligence Analysis of the*
22 *Department of Treasury.*

23 *“(11) The elements of the Department of Home-*
24 *land Security concerned with the analysis of intel-*
25 *ligence information, including the Office of Intel-*
26 *ligence of the Coast Guard.*

1 “(12) *Such other elements of any other depart-*
2 *ment or agency as may be designated by the Presi-*
3 *dent, or designated jointly by the National Intel-*
4 *ligence Director and the head of the department or*
5 *agency concerned, as an element of the intelligence*
6 *community.”.*

7 (c) *REORGANIZATION PLANS.—903(a) of title 5,*
8 *United States Code, is amended—*

9 (1) *in paragraph (5), by striking “or” after the*
10 *semicolon;*

11 (2) *in paragraph (6), by striking the period and*
12 *inserting “; or”; and*

13 (3) *by inserting after paragraph (6) the fol-*
14 *lowing:*

15 “(7) *the creation of an agency.”.*

16 (d) *APPLICATION OF CHAPTER.—Chapter 9 of title 5,*
17 *United States Code, is amended by adding at the end the*
18 *following:*

19 **“§913. Application of chapter**

20 *“This chapter shall apply to any reorganization plan*
21 *transmitted to Congress in accordance with section 903(b)*
22 *on or after the date of enactment of this section.”.*

23 (e) *TECHNICAL AND CONFORMING AMENDMENTS.—*

24 (1) *TABLE OF SECTIONS.—The table of sections*
25 *for chapter 9 of title 5, United States Code, is amend-*

1 ed by adding after the item relating to section 912 the
2 following:

“913. Application of chapter.”.

3 (2) *REFERENCES*.—Chapter 9 of title 5, United
4 States Code, is amended—

5 (A) in section 908(1), by striking “on or be-
6 fore December 31, 1984”; and (B) in section 910,
7 by striking “Government Operations” each place
8 it appears and inserting “Government Reform”.

9 (3) *DATE MODIFICATION*.—Section 909 of title 5,
10 United States Code, is amended in the first sentence
11 by striking “19” and inserting “20”.

12 ***Subtitle C—Restructuring Relating***
13 ***to the Department of Homeland***
14 ***Security and Congressional***
15 ***Oversight***

16 ***SEC. 5025. RESPONSIBILITIES OF COUNTERNARCOTICS OF-***
17 ***FICE.***

18 (a) *AMENDMENT*.—Section 878 of the Homeland Secu-
19 rity Act of 2002 (6 U.S.C. 458) is amended to read as fol-
20 lows:

21 ***“SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.***

22 “(a) *OFFICE*.—There shall be in the Department an
23 Office of Counternarcotics Enforcement, which shall be
24 headed by a Director appointed by the President, by and
25 with the advice and consent of the Senate.

1 “(b) *ASSIGNMENT OF PERSONNEL.—(1) The Secretary*
2 *shall assign to the Office permanent staff and other appro-*
3 *priate personnel detailed from other subdivisions of the De-*
4 *partment to carry out responsibilities under this section.*

5 “(2) *The Secretary shall designate senior employees*
6 *from each appropriate subdivision of the Department that*
7 *has significant counternarcotics responsibilities to act as a*
8 *liaison between that subdivision and the Office of Counter-*
9 *narcotics Enforcement.*

10 “(c) *LIMITATION ON CONCURRENT EMPLOYMENT.—*
11 *Except as provided in subsection (d), the Director of the*
12 *Office of Counternarcotics Enforcement shall not be em-*
13 *ployed by, assigned to, or serve as the head of, any other*
14 *branch of the Federal Government, any State or local gov-*
15 *ernment, or any subdivision of the Department other than*
16 *the Office of Counternarcotics Enforcement.*

17 “(d) *ELIGIBILITY TO SERVE AS THE UNITED STATES*
18 *INTERDICTION COORDINATOR.—The Director of the Office*
19 *of Counternarcotics Enforcement may be appointed as the*
20 *United States Interdiction Coordinator by the Director of*
21 *the Office of National Drug Control Policy, and shall be*
22 *the only person at the Department eligible to be so ap-*
23 *pointed.*

1 “(e) *RESPONSIBILITIES.—The Secretary shall direct*
2 *the Director of the Office of Counternarcotics*
3 *Enforcement—*

4 “(1) *to coordinate policy and operations within*
5 *the Department, between the Department and other*
6 *Federal departments and agencies, and between the*
7 *Department and State and local agencies with respect*
8 *to stopping the entry of illegal drugs into the United*
9 *States;*

10 “(2) *to ensure the adequacy of resources within*
11 *the Department for stopping the entry of illegal drugs*
12 *into the United States;*

13 “(3) *to recommend the appropriate financial*
14 *and personnel resources necessary to help the Depart-*
15 *ment better fulfill its responsibility to stop the entry*
16 *of illegal drugs into the United States;*

17 “(4) *within the Joint Terrorism Task Force con-*
18 *struct to track and sever connections between illegal*
19 *drug trafficking and terrorism; and*

20 “(5) *to be a representative of the Department on*
21 *all task forces, committees, or other entities whose*
22 *purpose is to coordinate the counternarcotics enforce-*
23 *ment activities of the Department and other Federal,*
24 *state or local agencies.*

25 “(f) *REPORTS TO CONGRESS.—*

1 “(1) *ANNUAL BUDGET REVIEW.*—*The Director of*
2 *the Office of Counternarcotics Enforcement shall, not*
3 *later than 30 days after the submission by the Presi-*
4 *dent to Congress of any request for expenditures for*
5 *the Department, submit to the Committees on Appro-*
6 *propriations and the authorizing committees of jurisdic-*
7 *tion of the House of Representatives and the Senate*
8 *a review and evaluation of such request. The review*
9 *and evaluation shall—*

10 “(A) *identify any request or subpart of any*
11 *request that affects or may affect the counter-*
12 *narcotics activities of the Department or any of*
13 *its subdivisions, or that affects the ability of the*
14 *Department or any subdivision of the Depart-*
15 *ment to meet its responsibility to stop the entry*
16 *of illegal drugs into the United States;*

17 “(B) *describe with particularity how such*
18 *requested funds would be or could be expended in*
19 *furtherance of counternarcotics activities; and*

20 “(C) *compare such requests with requests for*
21 *expenditures and amounts appropriated by Con-*
22 *gress in the previous fiscal year.*

23 “(2) *EVALUATION OF COUNTERNARCOTICS AC-*
24 *TIVITIES.*—*The Director of the Office of Counter-*
25 *narcotics Enforcement shall, not later than February*

1 1 of each year, submit to the Committees on Appro-
2 priations and the authorizing committees of jurisdic-
3 tion of the House of Representatives and the Senate
4 a review and evaluation of the counternarcotics ac-
5 tivities of the Department for the previous fiscal year.
6 The review and evaluation shall—

7 “(A) describe the counternarcotics activities
8 of the Department and each subdivision of the
9 Department (whether individually or in coopera-
10 tion with other subdivisions of the Department,
11 or in cooperation with other branches of the Fed-
12 eral Government or with State or local agencies),
13 including the methods, procedures, and systems
14 (including computer systems) for collecting, ana-
15 lyzing, sharing, and disseminating information
16 concerning narcotics activity within the Depart-
17 ment and between the Department and other
18 Federal, State, and local agencies;

19 “(B) describe the results of those activities,
20 using quantifiable data whenever possible;

21 “(C) state whether those activities were suf-
22 ficient to meet the responsibility of the Depart-
23 ment to stop the entry of illegal drugs into the
24 United States, including a description of the per-

1 *formance measures of effectiveness that were used*
2 *in making that determination; and*

3 “(D) recommend, where appropriate,
4 changes to those activities to improve the per-
5 formance of the Department in meeting its re-
6 sponsibility to stop the entry of illegal drugs into
7 the United States.

8 “(3) *CLASSIFIED OR LAW ENFORCEMENT SEN-*
9 *SITIVE INFORMATION.*—*Any content of a review and*
10 *evaluation described in the reports required in this*
11 *subsection that involves information classified under*
12 *criteria established by an Executive order, or whose*
13 *public disclosure, as determined by the Secretary,*
14 *would be detrimental to the law enforcement or na-*
15 *tional security activities of the Department or any*
16 *other Federal, State, or local agency, shall be pre-*
17 *sented to Congress separately from the rest of the re-*
18 *view and evaluation.”.*

19 **(b) CONFORMING AMENDMENT.**—*Section 103(a) of the*
20 *Homeland Security Act of 2002 (6 U.S.C. 113(a)) is*
21 *amended—*

22 (1) *by redesignating paragraphs (8) and (9) as*
23 *paragraphs (9) and (10), respectively; and*

24 (2) *by inserting after paragraph (7) the fol-*
25 *lowing new paragraph (8):*

1 “(8) *A Director of the Office of Counternarcotics*
2 *Enforcement.*”.

3 (c) *AUTHORIZATION OF APPROPRIATIONS.—Of the*
4 *amounts appropriated for the Department of Homeland Se-*
5 *curity for Departmental management and operations for*
6 *fiscal year 2005, there is authorized up to \$6,000,000 to*
7 *carry out section 878 of the Department of Homeland Secu-*
8 *rity Act of 2002 (as amended by this section).*

9 **SEC. 5026. USE OF COUNTERNARCOTICS ENFORCEMENT AC-**
10 **TIVITIES IN CERTAIN EMPLOYEE PERFORM-**
11 **ANCE APPRAISALS.**

12 (a) *IN GENERAL.—Subtitle E of title VIII of the*
13 *Homeland Security Act of 2002 (6 U.S.C. 411 and fol-*
14 *lowing) is amended by adding at the end the following:*

15 **“SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT AC-**
16 **TIVITIES IN CERTAIN EMPLOYEE PERFORM-**
17 **ANCE APPRAISALS.**

18 “(a) *IN GENERAL.—Each subdivision of the Depart-*
19 *ment that is a National Drug Control Program Agency*
20 *shall include as one of the criteria in its performance ap-*
21 *praisal system, for each employee directly or indirectly in-*
22 *volved in the enforcement of Federal, State, or local nar-*
23 *cotics laws, the performance of that employee with respect*
24 *to the enforcement of Federal, State, or local narcotics laws,*

1 *relying to the greatest extent practicable on objective per-*
2 *formance measures, including—*

3 “(1) *the contribution of that employee to seizures*
4 *of narcotics and arrests of violators of Federal, State,*
5 *or local narcotics laws; and*

6 “(2) *the degree to which that employee cooper-*
7 *ated with or contributed to the efforts of other employ-*
8 *ees, either within the Department or other Federal,*
9 *State, or local agencies, in counternarcotics enforce-*
10 *ment.*

11 “(b) *DEFINITIONS.—For purposes of this section—*

12 “(1) *the term ‘National Drug Control Program*
13 *Agency’ means—*

14 “(A) *a National Drug Control Program*
15 *Agency, as defined in section 702(7) of the Office*
16 *of National Drug Control Policy Reauthorization*
17 *Act of 1998 (as last in effect); and*

18 “(B) *any subdivision of the Department*
19 *that has a significant counternarcotics responsi-*
20 *bility, as determined by—*

21 “(i) *the counternarcotics officer, ap-*
22 *pointed under section 878; or*

23 “(ii) *if applicable, the counternarcotics*
24 *officer’s successor in function (as deter-*
25 *mined by the Secretary); and*

1 “(2) the term ‘performance appraisal system’
2 means a system under which periodic appraisals of
3 job performance of employees are made, whether
4 under chapter 43 of title 5, United States Code, or
5 otherwise.”.

6 (b) *CLERICAL AMENDMENT.*—The table of contents for
7 the Homeland Security Act of 2002 is amended by inserting
8 after the item relating to section 842 the following:

 “Sec. 843. Use of counternarcotics enforcement activities in certain employee per-
 formance appraisals.”.

9 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON**
10 **ADDRESSING HOMELAND SECURITY FOR THE**
11 **AMERICAN PEOPLE.**

12 (a) *FINDINGS.*—The House of Representatives finds
13 that—

14 (1) the House of Representatives created a Select
15 Committee on Homeland Security at the start of the
16 108th Congress to provide for vigorous congressional
17 oversight for the implementation and operation of the
18 Department of Homeland Security;

19 (2) the House of Representatives also charged the
20 Select Committee on Homeland Security with under-
21 taking a thorough and complete study of the oper-
22 ation and implementation of the rules of the House,
23 including the rule governing committee jurisdiction,

1 *with respect to the issue of homeland security and to*
2 *make its recommendations to the Committee on Rules;*

3 *(3) on February 11, 2003, the Committee on Ap-*
4 *propriations of the House of Representatives created*
5 *a new Subcommittee on Homeland Security with ju-*
6 *risdiction over the Transportation Security Adminis-*
7 *tration, the Coast Guard, and other entities within*
8 *the Department of Homeland Security to help address*
9 *the integration of the Department of Homeland Secu-*
10 *rity's 22 legacy agencies; and*

11 *(4) during the 108th Congress, the House of Rep-*
12 *resentatives has taken several steps to help ensure its*
13 *continuity in the event of a terrorist attack,*
14 *including—*

15 *(A) adopting H.R. 2844, the Continuity of*
16 *Representation Act, a bill to require States to*
17 *hold expedited special elections to fill vacancies*
18 *in the House of Representatives not later than 45*
19 *days after the vacancy is announced by the*
20 *Speaker in extraordinary circumstances;*

21 *(B) granting authority for joint-leadership*
22 *recalls from a period of adjournment to an alter-*
23 *nate place;*

24 *(C) allowing for anticipatory consent with*
25 *the Senate to assemble in an alternate place;*

1 (D) establishing the requirement that the
2 Speaker submit to the Clerk a list of Members in
3 the order in which each shall act as Speaker pro
4 tempore in the case of a vacancy in the Office of
5 Speaker (including physical inability of the
6 Speaker to discharge his duties) until the election
7 of a Speaker or a Speaker pro tempore, exer-
8 cising such authorities of the Speaker as may be
9 necessary and appropriate to that end;

10 (E) granting authority for the Speaker to
11 declare an emergency recess of the House subject
12 to the call of the Chair when notified of an im-
13 minent threat to the safety of the House;

14 (F) granting authority for the Speaker, dur-
15 ing any recess or adjournment of not more than
16 three days, in consultation with the Minority
17 Leader, to postpone the time for reconvening or
18 to reconvene before the time previously appointed
19 solely to declare the House in recess, in each case
20 within the constitutional three-day limit;

21 (G) establishing the authority for the Speak-
22 er to convene the House in an alternate place
23 within the seat of Government; and

24 (H) codifying the long-standing practice
25 that the death, resignation, expulsion, disquali-

1 *fication, or removal of a Member results in an*
2 *adjustment of the quorum of the House, which*
3 *the Speaker shall announce to the House and*
4 *which shall not be subject to appeal.*

5 **(b) SENSE OF THE HOUSE.**—*It is the sense of the*
6 *House of Representatives that the Committee on Rules*
7 *should act upon the recommendations provided by the Select*
8 *Committee on Homeland Security, and other committees of*
9 *existing jurisdiction, regarding the jurisdiction over pro-*
10 *posed legislation, messages, petitions, memorials and other*
11 *matters relating to homeland security prior to or at the*
12 *start of the 109th Congress.*

13 **SEC. 5028. ASSISTANT SECRETARY FOR CYBERSECURITY.**

14 **(a) IN GENERAL.**—*Subtitle A of title II of the Home-*
15 *land Security Act of 2002 (6 USC 121 et. seq.) is amended*
16 *by adding at the end the following:*

17 **“SEC. 203. ASSISTANT SECRETARY FOR CYBERSERCURITY.**

18 **“(a) IN GENERAL.**—*There shall be in the Department*
19 *an Assistant Secretary for Cybersecurity, who shall be ap-*
20 *pointed by the President.*

21 **“(b) RESPONSIBILITIES.**—*The Assistant Secretary for*
22 *Cybersecurity shall assist the Under Secretary for Informa-*
23 *tion Analysis and Infrastructure Protection in discharging*
24 *the responsibilities of the Under Secretary under this sub-*
25 *title.*

1 “(c) *AUTHORITY OVER THE NATIONAL COMMUNICA-*
 2 *TIONS SYSTEM.—The Assistant Secretary shall have pri-*
 3 *mary authority within the Department over the National*
 4 *Communications System.*”.

5 (b) *CLERICAL AMENDMENT.—The table of contents in*
 6 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*
 7 *101 et seq.) is amended by inserting after the item relating*
 8 *to section 202 the following:*

“203. *Assistant Secretary for Cybersecurity.*”.

9 **SEC. 5029. INTEGRATING SECURITY SCREENING SYSTEMS**
 10 **AND ENHANCING INFORMATION SHARING BY**
 11 **DEPARTMENT OF HOMELAND SECURITY.**

12 (a) *IMMEDIATE ACTIONS.—The Secretary of Home-*
 13 *land Security shall ensure—*

14 (1)(A) *that appropriate personnel of the Depart-*
 15 *ment of Homeland Security who are engaged in the*
 16 *security-related screening of individuals and entities*
 17 *interacting with the United States border and trans-*
 18 *portation systems, have the appropriate security*
 19 *clearances, and need access to the information in the*
 20 *context of their job responsibilities, can promptly ac-*
 21 *cess or receive law enforcement and intelligence infor-*
 22 *mation contained in all databases utilized by the De-*
 23 *partment, except as otherwise provided by law or, as*
 24 *appropriate, under guidelines agreed upon by the At-*
 25 *torney General and the Secretary;*

1 (B) any Federal official who receives informa-
2 tion pursuant to subparagraph (A) may use that in-
3 formation only as necessary in the conduct of that
4 person's official duties and subject to any limitations
5 on the unauthorized disclosure of such information;

6 (2) the coordination and, where appropriate,
7 consolidation or elimination of duplicative targeting
8 and screening centers or systems used by the Depart-
9 ment for security screening purposes;

10 (3) the timely sharing of law enforcement and
11 intelligence information between entities of the Direc-
12 torate of Border and Transportation Security and the
13 Directorate for Information Analysis and Infrastruc-
14 ture Protection, and any other entities of the Federal
15 Government prescribed by the Secretary in consulta-
16 tion with the Director of the Office of Management
17 and Budget; and

18 (4) that all actions taken under this section are
19 consistent with the Secretary's Department-wide ef-
20 forts to ensure the compatibility of information sys-
21 tems and databases pursuant to section 102(b)(3) of
22 the Homeland Security Act of 2002 (6 U.S.C.
23 112(b)(3)).

24 (b) REPORT.—

1 (1) *REQUIREMENT.*—*Not later than 90 days*
2 *after the date of the enactment of this Act, the Sec-*
3 *retary of Homeland Security shall submit a report to*
4 *the Congress that includes the following:*

5 (A) *A description of each center, office, task*
6 *force, or other coordinating organization that the*
7 *Department of Homeland Security administers,*
8 *maintains, or participates in, and that is in-*
9 *volved in collecting, analyzing, or sharing infor-*
10 *mation or intelligence related to—*

11 (i) *individuals or organizations in-*
12 *volved in terrorism, drug trafficking, illegal*
13 *immigration, or any other criminal activ-*
14 *ity; or*

15 (ii) *the screening, investigation, in-*
16 *spection, or examination of persons or goods*
17 *entering the United States.*

18 (B) *A description of each database or other*
19 *electronic system that the Department of Home-*
20 *land Security administers or utilizes for the pur-*
21 *pose of tracking or sharing of information or in-*
22 *telligence related to—*

23 (i) *individuals or organizations in-*
24 *volved in terrorism, drug trafficking, illegal*

1 immigration, or any other criminal activ-
2 ity; or

3 (ii) the screening, investigation, in-
4 spection, or examination of persons or goods
5 entering the United States.

6 (C) For each description provided under
7 subparagraph (A) or (B)—

8 (i) information on the purpose and
9 scope of operations of the center, office, task
10 force, or other coordinating organization, or
11 database or other electronic system, respec-
12 tively; and

13 (ii) an identification of each subdivi-
14 sion of the Department, and each govern-
15 mental agency (whether Federal, State, or
16 local) that participates in or utilizes such
17 organization or system on a routine basis.

18 (D) A description of the nature and extent
19 of any overlap between, or duplication of effort
20 by, the centers, offices, task forces, and other co-
21 ordinating organizations, or databases and elec-
22 tronic systems, described under subparagraph
23 (A) or (B).

24 (2) *CLASSIFIED OR LAW ENFORCEMENT SEN-*
25 *SITIVE INFORMATION.*—Any content of the report that

1 *involves information classified under criteria estab-*
2 *lished by an Executive order, or the public disclosure*
3 *of which, as determined by the Secretary, would be*
4 *detrimental to the law enforcement or national secu-*
5 *rity activities of the Department or any other Fed-*
6 *eral, State, or local agency, shall be presented to the*
7 *Congress separately from the rest of the report.*

8 *(c) REQUIREMENT TO SUBMIT PLAN.—Within 270*
9 *days after the date of the enactment of this Act, the Sec-*
10 *retary of Homeland Security shall submit to the Congress*
11 *a plan describing the actions taken, and those that will be*
12 *taken, to implement subsection (a). Such plan shall include*
13 *an analysis of the feasibility of integrating all security*
14 *screening centers or systems utilized by the Department of*
15 *Homeland Security into a single, comprehensive system,*
16 *and actions that can be taken to further coordinate such*
17 *system with other Federal and private screening efforts at*
18 *critical infrastructure and facilities.*

19 **SEC. 5030. UNDER SECRETARY FOR THE PRIVATE SECTOR**
20 **AND TOURISM.**

21 *(a) ESTABLISHMENT OF UNDER SECRETARY FOR THE*
22 *PRIVATE SECTOR AND TOURISM.—Section 103(a) of the*
23 *Homeland Security Act of 2002 (6 U.S.C. 113(a)) is further*
24 *amended by redesignating paragraphs (2) through (10) in*

1 order as paragraphs (3) through (11), and by inserting
2 after paragraph (1) the following:

3 “(2) *An Under Secretary for the Private Sector*
4 *and Tourism.*”.

5 (b) *FUNCTIONS.*—*Section 102(f) of such Act (6 U.S.C.*
6 *112(f)) is further amended—*

7 (1) *by striking so much as precedes paragraph*
8 *(1) and inserting the following:*

9 “(f) *UNDER SECRETARY FOR THE PRIVATE SECTOR*
10 *AND TOURISM.*—*The Undersecretary for the Private Sector*
11 *and Tourism shall be responsible for—*”; and

12 (2) *by striking “and” after the semicolon at the*
13 *end of paragraph (7), by striking the period at the*
14 *end of paragraph (8) and inserting a semicolon, and*
15 *by adding at the end the following:*

16 “(9) *employing an analytic and economic staff*
17 *who shall report directly to the Under Secretary on*
18 *the commercial and economic impact of Department*
19 *policies;*

20 “(10) *coordinating with the Office of State and*
21 *Local Government on all matters of concern to the*
22 *private sector, including the tourism industry; and*

23 “(11) *coordinating with the Assistant Secretary*
24 *for Trade Development of the Department of Com-*

1 *merce on means of promoting tourism and travel to*
2 *the United States.”.*

3 ***Subtitle D—Improvements to***
4 ***Information Security***

5 ***SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS***
6 ***TO ENHANCE AGENCY PLANNING FOR INFOR-***
7 ***MATION SECURITY NEEDS.***

8 *Chapter 113 of title 40, United States Code, is*
9 *amended—*

10 *(1) in section 11302(b), by inserting “security,”*
11 *after “use,”;*

12 *(2) in section 11302(c), by inserting “, including*
13 *information security risks,” after “risks” both places*
14 *it appears;*

15 *(3) in section 11312(b)(1), by striking “informa-*
16 *tion technology investments” and inserting “invest-*
17 *ments in information technology (including informa-*
18 *tion security needs)”;* and

19 *(4) in section 11315(b)(2), by inserting “, se-*
20 *cure,” after “sound”.*

1 ***Subtitle E—Personnel Management***
2 ***Improvements***

3 ***CHAPTER 1—APPOINTMENTS PROCESS***
4 ***REFORM***

5 ***SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSI-***
6 ***TIONS.***

7 *(a) DEFINITION OF NATIONAL SECURITY POSITION.—*

8 *For purposes of this section, the term “national security*
9 *position” shall include—*

10 *(1) those positions that involve activities of the*
11 *United States Government that are concerned with*
12 *the protection of the Nation from foreign aggression,*
13 *terrorism, or espionage, including development of de-*
14 *fense plans or policies, intelligence or counterintel-*
15 *ligence activities, and related activities concerned*
16 *with the preservation of military strength of the*
17 *United States and protection of the homeland; and*

18 *(2) positions that require regular use of, or ac-*
19 *cess to, classified information.*

20 *(b) PUBLICATION IN THE FEDERAL REGISTER.—Not*
21 *later than 60 days after the effective date of this section,*
22 *the Director of the Office of Personnel Management shall*
23 *publish in the Federal Register a list of offices that con-*
24 *stitute national security positions under section (a) for*
25 *which Senate confirmation is required by law, and the Di-*

1 *rector shall revise such list from time to time as appro-*
2 *priate.*

3 (c) *PRESIDENTIAL APPOINTMENTS.—(1) With respect*
4 *to appointment of individuals to offices identified under*
5 *section (b) and listed in sections 5315 or 5316 of title 5,*
6 *United States Code, which shall arise after the publication*
7 *of the list required by section (b), and notwithstanding any*
8 *other provision of law, the advice and consent of the Senate*
9 *shall not be required, but rather such appointment shall be*
10 *made by the President alone.*

11 (2) *With respect to appointment of individuals to of-*
12 *fices identified under section (b) and listed in sections 5313*
13 *or 5314 of title 5, United States Code, which shall arise*
14 *after the publication of the list required by section (b), and*
15 *notwithstanding any other provision of law, the advice and*
16 *consent of the Senate shall be required, except that if 30*
17 *legislative days shall have expired from the date on which*
18 *a nomination is submitted to the Senate without a con-*
19 *firmation vote occurring in the Senate, such appointment*
20 *shall be made by the President alone.*

21 (3) *For the purposes of this subsection, the term “legis-*
22 *lative day” means a day on which the Senate is in session.*

23 **SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.**

24 Subsections (a) and (b) of section 3349a of title 5,
25 *United States Code, are amended to read as follows:*

1 “(a) *As used in this section—*

2 “(1) *the term ‘inauguration day’ means the date*
3 *on which any person swears or affirms the oath of of-*
4 *fice as President; and*

5 “(2) *the term ‘specified national security posi-*
6 *tion’ shall mean not more than 20 positions requiring*
7 *Senate confirmation, not to include more than 3*
8 *heads of Executive Departments, which are designated*
9 *by the President on or after an inauguration day as*
10 *positions for which the duties involve substantial re-*
11 *sponsibility for national security.*

12 “(b) *With respect to any vacancy that exists during*
13 *the 60-day period beginning on an inauguration day, ex-*
14 *cept where the person swearing or affirming the oath of of-*
15 *fice was the President on the date preceding the date of*
16 *swearing or affirming such oath of office, the 210-day pe-*
17 *riod under section 3346 or 3348 shall be deemed to begin*
18 *on the later of the date occurring—*

19 “(1) *90 days after such transitional inaugura-*
20 *tion day; or*

21 “(2) *90 days after the date on which the vacancy*
22 *occurs.*

23 “(c) *With respect to any vacancy in any specified na-*
24 *tional security position that exists during the 60-day period*
25 *beginning on an inauguration day, the requirements of sub-*

1 paragraphs (A) and (B) of section 3345(a)(3) shall not
2 apply.”.

3 **SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-**
4 **TELLIGENCE COMMUNITY.**

5 (a) *IN GENERAL.*—*The Ethics in Government Act of*
6 *1978 (5 U.S.C. App.) is amended by inserting before title*
7 *IV the following:*

8 **“TITLE III—INTELLIGENCE PER-**
9 **SONNEL FINANCIAL DISCLO-**
10 **SURE REQUIREMENTS**

11 **“SEC. 301. PERSONS REQUIRED TO FILE.**

12 “(a) *Within 30 days of assuming the position of an*
13 *officer or employee described in subsection (e), an indi-*
14 *vidual shall file a report containing the information de-*
15 *scribed in section 302(b) unless the individual has left an-*
16 *other position described in subsection (e) within 30 days*
17 *prior to assuming such new position or has already filed*
18 *a report under this title with respect to nomination for the*
19 *new position or as a candidate for the position.*

20 “(b)(1) *Within 5 days of the transmittal by the Presi-*
21 *dent to the Senate of the nomination of an individual to*
22 *a position in the executive branch, appointment to which*
23 *requires the advice and consent of the Senate, such indi-*
24 *vidual shall file a report containing the information de-*
25 *scribed in section 302(b). Such individual shall, not later*

1 *than the date of the first hearing to consider the nomination*
2 *of such individual, make current the report filed pursuant*
3 *to this paragraph by filing the information required by sec-*
4 *tion 302(a)(1)(A) with respect to income and honoraria re-*
5 *ceived as of the date which occurs 5 days before the date*
6 *of such hearing. Nothing in this Act shall prevent any con-*
7 *gressional committee from requesting, as a condition of con-*
8 *firmation, any additional financial information from any*
9 *Presidential nominee whose nomination has been referred*
10 *to that committee.*

11 “(2) *An individual whom the President or the Presi-*
12 *dent-elect has publicly announced he intends to nominate*
13 *to a position may file the report required by paragraph*
14 *(1) at any time after that public announcement, but not*
15 *later than is required under the first sentence of such para-*
16 *graph.*

17 “(c) *Any individual who is an officer or employee de-*
18 *scribed in subsection (e) during any calendar year and per-*
19 *forms the duties of his position or office for a period in*
20 *excess of 60 days in that calendar year shall file on or before*
21 *May 15 of the succeeding year a report containing the infor-*
22 *mation described in section 302(a).*

23 “(d) *Any individual who occupies a position described*
24 *in subsection (e) shall, on or before the 30th day after termi-*
25 *nation of employment in such position, file a report con-*

1 *taining the information described in section 302(a) cov-*
2 *ering the preceding calendar year if the report required by*
3 *subsection (c) has not been filed and covering the portion*
4 *of the calendar year in which such termination occurs up*
5 *to the date the individual left such office or position, unless*
6 *such individual has accepted employment in or takes the*
7 *oath of office for another position described in subsection*
8 *(e) or section 101(f).*

9 “(e) *The officers and employees referred to in sub-*
10 *sections (a), (c), and (d) are those officers and employees*
11 *who—*

12 “(1) *are employed in or under—*

13 “(A) *the Office of the National Intelligence*
14 *Director; or*

15 “(B) *an element of the intelligence commu-*
16 *nity, as defined in section 3(4) of the National*
17 *Security Act of 1947 (50 U.S.C. 401a(4)); and*

18 “(2) *would (but for this subsection) otherwise be*
19 *subject to title I by virtue of paragraph (3) of section*
20 *101(f), including—*

21 “(A) *any special Government employee and*
22 *any member of a uniformed service who is de-*
23 *scribed in such paragraph; and*

24 “(B) *any officer or employee in any posi-*
25 *tion with respect to which the Director of the Of-*

1 *Office of Government Ethics makes a determination*
2 *described in such paragraph.*

3 “(f)(1) *Reasonable extensions of time for filing any re-*
4 *port may be granted under procedures prescribed by the Of-*
5 *ice of Government Ethics, but the total of such extensions*
6 *shall not exceed 90 days.*

7 “(2)(A) *In the case of an individual who is serving*
8 *in the Armed Forces, or serving in support of the Armed*
9 *Forces, in an area while that area is designated by the*
10 *President by Executive order as a combat zone for purposes*
11 *of section 112 of the Internal Revenue Code of 1986, the*
12 *date for the filing of any report shall be extended so that*
13 *the date is 180 days after the later of—*

14 “(i) *the last day of the individual’s service*
15 *in such area during such designated period; or*

16 “(ii) *the last day of the individual’s hos-*
17 *pitalization as a result of injury received or dis-*
18 *ease contracted while serving in such area.*

19 “(B) *The Office of Government Ethics, in consultation*
20 *with the Secretary of Defense, may prescribe procedures*
21 *under this paragraph.*

22 “(g) *The Director of the Office of Government Ethics*
23 *may grant a publicly available request for a waiver of any*
24 *reporting requirement under this title with respect to an*
25 *individual if the Director determines that—*

1 “(1) such individual is not a full-time employee
2 of the Government;

3 “(2) such individual is able to provide special
4 services needed by the Government;

5 “(3) it is unlikely that such individual’s outside
6 employment or financial interests will create a con-
7 flict of interest;

8 “(4) such individual is not reasonably expected
9 to perform the duties of his office or position for more
10 than 60 days in a calendar year; and

11 “(5) public financial disclosure by such indi-
12 vidual is not necessary in the circumstances.

13 **“SEC. 302. CONTENTS OF REPORTS.**

14 “(a) Each report filed pursuant to section 301 (c) and
15 (d) shall include a full and complete statement with respect
16 to the following:

17 “(1)(A) The source, description, and category of
18 amount or value of income (other than income re-
19 ferred to in subparagraph (B)) from any source (other
20 than from current employment by the United States
21 Government), received during the preceding calendar
22 year, aggregating more than \$500 in amount or
23 value, except that honoraria received during Govern-
24 ment service by an officer or employee shall include,

1 *in addition to the source, the exact amount and the*
2 *date it was received.*

3 “(B) *The source, description, and category of*
4 *amount or value of investment income which may in-*
5 *clude but is not limited to dividends, rents, interest,*
6 *and capital gains, received during the preceding cal-*
7 *endar year which exceeds \$500 in amount or value.*

8 “(C) *The categories for reporting the amount or*
9 *value of income covered in subparagraphs (A) and*
10 *(B) are—*

11 “(i) *greater than \$500 but not more than*
12 *\$20,000;*

13 “(ii) *greater than \$20,000 but not more*
14 *than \$100,000;*

15 “(iii) *greater than \$100,000 but not more*
16 *than \$1,000,000;*

17 “(iv) *greater than \$1,000,000 but not more*
18 *than \$2,500,000; and*

19 “(v) *greater than \$2,500,000.*

20 “(2)(A) *The identity of the source, a brief de-*
21 *scription, and the value of all gifts aggregating more*
22 *than the minimal value as established by section*
23 *7342(a)(5) of title 5, United States Code, or \$250,*
24 *whichever is greater, received from any source other*
25 *than a relative of the reporting individual during the*

1 preceding calendar year, except that any food, lodg-
2 ing, or entertainment received as personal hospitality
3 of an individual need not be reported, and any gift
4 with a fair market value of \$100 or less, as adjusted
5 at the same time and by the same percentage as the
6 minimal value is adjusted, need not be aggregated for
7 purposes of this subparagraph.

8 “(B) The identity of the source and a brief de-
9 scription (including dates of travel and nature of ex-
10 penses provided) of reimbursements received from any
11 source aggregating more than the minimal value as
12 established by section 7342(a)(5) of title 5, United
13 States Code, or \$250, whichever is greater and re-
14 ceived during the preceding calendar year.

15 “(C) In an unusual case, a gift need not be ag-
16 gregated under subparagraph (A) if a publicly avail-
17 able request for a waiver is granted.

18 “(3) The identity and category of value of any
19 interest in property held during the preceding cal-
20 endar year in a trade or business, or for investment
21 or the production of income, which has a fair market
22 value which exceeds \$5,000 as of the close of the pre-
23 ceding calendar year, excluding any personal liability
24 owed to the reporting individual by a spouse, or by
25 a parent, brother, sister, or child of the reporting in-

1 *dividual or of the reporting individual's spouse, or*
2 *any deposit accounts aggregating \$100,000 or less in*
3 *a financial institution, or any Federal Government*
4 *securities aggregating \$100,000 or less.*

5 *“(4) The identity and category of value of the*
6 *total liabilities owed to any creditor other than a*
7 *spouse, or a parent, brother, sister, or child of the re-*
8 *porting individual or of the reporting individual's*
9 *spouse which exceed \$20,000 at any time during the*
10 *preceding calendar year, excluding—*

11 *“(A) any mortgage secured by real property*
12 *which is a personal residence of the reporting in-*
13 *dividual or his spouse; and*

14 *“(B) any loan secured by a personal motor*
15 *vehicle, household furniture, or appliances, which*
16 *loan does not exceed the purchase price of the*
17 *item which secures it.*

18 *With respect to revolving charge accounts, only those*
19 *with an outstanding liability which exceeds \$20,000*
20 *as of the close of the preceding calendar year need be*
21 *reported under this paragraph.*

22 *“(5) Except as provided in this paragraph, a*
23 *brief description of any real property, other than*
24 *property used solely as a personal residence of the re-*
25 *porting individual or his spouse, and stocks, bonds,*

1 *commodities futures, and other forms of securities,*
2 *if—*

3 *“(A) purchased, sold, or exchanged during*
4 *the preceding calendar year;*

5 *“(B) the value of the transaction exceeded*
6 *\$5,000; and*

7 *“(C) the property or security is not already*
8 *required to be reported as a source of income*
9 *pursuant to paragraph (1)(B) or as an asset*
10 *pursuant to paragraph (3).*

11 *Reporting is not required under this paragraph of*
12 *any transaction solely by and between the reporting*
13 *individual, his spouse, or dependent children.*

14 *“(6)(A) The identity of all positions held on or*
15 *before the date of filing during the current calendar*
16 *year (and, for the first report filed by an individual,*
17 *during the 1-year period preceding such calendar*
18 *year) as an officer, director, trustee, partner, propri-*
19 *etor, representative, employee, or consultant of any*
20 *corporation, company, firm, partnership, or other*
21 *business enterprise, any nonprofit organization, any*
22 *labor organization, or any educational or other insti-*
23 *tution other than the United States Government. This*
24 *subparagraph shall not require the reporting of posi-*
25 *tions held in any religious, social, fraternal, or polit-*

1 *ical entity and positions solely of an honorary na-*
2 *ture.*

3 *“(B) If any person, other than a person reported*
4 *as a source of income under paragraph (1)(A) or the*
5 *United States Government, paid a nonelected report-*
6 *ing individual compensation in excess of \$25,000 in*
7 *the calendar year in which, or the calendar year*
8 *prior to the calendar year in which, the individual*
9 *files his first report under this title, the individual*
10 *shall include in the report—*

11 *“(i) the identity of each source of such com-*
12 *penetration; and*

13 *“(ii) a brief description of the nature of the*
14 *duties performed or services rendered by the re-*
15 *porting individual for each such source.*

16 *“(C) Subparagraph (B) shall not require any in-*
17 *dividual to include in such report any information—*

18 *“(i) with respect to a person for whom serv-*
19 *ices were provided by any firm or association of*
20 *which such individual was a member, partner,*
21 *or employee, unless the individual was directly*
22 *involved in the provision of such services;*

23 *“(ii) that is protected by a court order or*
24 *is under seal; or*

1 “(iii) that is considered confidential as a
2 result of—

3 “(I) a privileged relationship estab-
4 lished by a confidentiality agreement en-
5 tered into at the time the person retained
6 the services of the individual;

7 “(II) a grand jury proceeding or a
8 nonpublic investigation, if there are no pub-
9 lic filings, statements, appearances, or re-
10 ports that identify the person for whom
11 such individual is providing services; or

12 “(III) an applicable rule of profes-
13 sional conduct that prohibits disclosure of
14 the information and that can be enforced by
15 a professional licensing body.

16 “(7) A description of parties to and terms of any
17 agreement or arrangement with respect to (A) future
18 employment; (B) a leave of absence during the period
19 of the reporting individual’s Government service; (C)
20 continuation of payments by a former employer other
21 than the United States Government; and (D) con-
22 tinuing participation in an employee welfare or ben-
23 efit plan maintained by a former employer. The de-
24 scription of any formal agreement for future employ-
25 ment shall include the date of that agreement.

1 “(8) *The category of the total cash value of any*
2 *interest of the reporting individual in a qualified*
3 *blind trust.*

4 “(b)(1) *Each report filed pursuant to subsections (a)*
5 *and (b) of section 301 shall include a full and complete*
6 *statement with respect to the information required by—*

7 “(A) *paragraphs (1) and (6) of subsection (a) for*
8 *the year of filing and the preceding calendar year,*

9 “(B) *paragraphs (3) and (4) of subsection (a) as*
10 *of the date specified in the report but which is less*
11 *than 31 days before the filing date, and*

12 “(C) *paragraph (7) of subsection (a) as of the fil-*
13 *ing date but for periods described in such paragraph.*

14 “(2)(A) *In lieu of filling out 1 or more schedules of*
15 *a financial disclosure form, an individual may supply the*
16 *required information in an alternative format, pursuant to*
17 *either rules adopted by the Office of Government Ethics or*
18 *pursuant to a specific written determination by the Direc-*
19 *tor of the Office of Government Ethics for a reporting indi-*
20 *vidual.*

21 “(B) *In lieu of indicating the category of amount or*
22 *value of any item contained in any report filed under this*
23 *title, a reporting individual may indicate the exact dollar*
24 *amount of such item.*

1 “(c) *In the case of any individual described in section*
2 *301(e), any reference to the preceding calendar year shall*
3 *be considered also to include that part of the calendar year*
4 *of filing up to the date of the termination of employment.*

5 “(d)(1) *The categories for reporting the amount or*
6 *value of the items covered in subsection (a)(3) are—*

7 “(A) *greater than \$5,000 but not more than*
8 *\$15,000;*

9 “(B) *greater than \$15,000 but not more than*
10 *\$25,000;*

11 “(C) *greater than \$25,000 but not more than*
12 *\$100,000;*

13 “(D) *greater than \$100,000 but not more than*
14 *\$1,000,000;*

15 “(E) *greater than \$1,000,000 but not more than*
16 *\$2,500,000; and*

17 “(F) *greater than \$2,500,000.*

18 “(2) *For the purposes of subsection (a)(3) if the current*
19 *value of an interest in real property (or an interest in a*
20 *real estate partnership) is not ascertainable without an ap-*
21 *praisal, an individual may list (A) the date of purchase*
22 *and the purchase price of the interest in the real property,*
23 *or (B) the assessed value of the real property for tax pur-*
24 *poses, adjusted to reflect the market value of the property*
25 *used for the assessment if the assessed value is computed*

1 *at less than 100 percent of such market value, but such indi-*
2 *vidual shall include in his report a full and complete de-*
3 *scription of the method used to determine such assessed*
4 *value, instead of specifying a category of value pursuant*
5 *to paragraph (1). If the current value of any other item*
6 *required to be reported under subsection (a)(3) is not ascer-*
7 *tainable without an appraisal, such individual may list the*
8 *book value of a corporation whose stock is not publicly trad-*
9 *ed, the net worth of a business partnership, the equity value*
10 *of an individually owned business, or with respect to other*
11 *holdings, any recognized indication of value, but such indi-*
12 *vidual shall include in his report a full and complete de-*
13 *scription of the method used in determining such value. In*
14 *lieu of any value referred to in the preceding sentence, an*
15 *individual may list the assessed value of the item for tax*
16 *purposes, adjusted to reflect the market value of the item*
17 *used for the assessment if the assessed value is computed*
18 *at less than 100 percent of such market value, but a full*
19 *and complete description of the method used in determining*
20 *such assessed value shall be included in the report.*

21 “(3) *The categories for reporting the amount or value*
22 *of the items covered in paragraphs (4) and (8) of subsection*
23 *(a) are—*

24 “(A) *greater than \$20,000 but not more than*
25 *\$100,000;*

1 “(B) greater than \$100,000 but not more than
2 \$500,000;

3 “(C) greater than \$500,000 but not more than
4 \$1,000,000; and

5 “(D) greater than \$1,000,000.

6 “(e)(1) Except as provided in subparagraph (F), each
7 report required by section 301 shall also contain informa-
8 tion listed in paragraphs (1) through (5) of subsection (a)
9 respecting the spouse or dependent child of the reporting
10 individual as follows:

11 “(A) The sources of earned income earned by a
12 spouse, including honoraria, which exceed \$500, ex-
13 cept that, with respect to earned income, if the spouse
14 is self-employed in business or a profession, only the
15 nature of such business or profession need be reported.

16 “(B) All information required to be reported in
17 subsection (a)(1)(B) with respect to investment in-
18 come derived by a spouse or dependent child.

19 “(C) In the case of any gifts received by a spouse
20 or dependent child which are not received totally
21 independent of the relationship of the spouse or de-
22 pendent child to the reporting individual, the identity
23 of the source and a brief description of gifts of trans-
24 portation, lodging, food, or entertainment and a brief
25 description and the value of other gifts.

1 “(D) In the case of any reimbursements received
2 by a spouse or dependent child which are not received
3 totally independent of the relationship of the spouse
4 or dependent child to the reporting individual, the
5 identity of the source and a brief description of each
6 such reimbursement.

7 “(E) In the case of items described in para-
8 graphs (3) through (5) of subsection (a), all informa-
9 tion required to be reported under these paragraphs
10 other than items which the reporting individual cer-
11 tifies (i) represent the spouse’s or dependent child’s
12 sole financial interest or responsibility and which the
13 reporting individual has no knowledge of, (ii) are not
14 in any way, past or present, derived from the income,
15 assets, or activities of the reporting individual, and
16 (iii) are ones from which he neither derives, nor ex-
17 pects to derive, any financial or economic benefit.

18 “(F) Reports required by subsections (a), (b),
19 and (c) of section 301 shall, with respect to the spouse
20 and dependent child of the reporting individual, only
21 contain information listed in paragraphs (1), (3),
22 and (4) of subsection (a).

23 “(2) No report shall be required with respect to a
24 spouse living separate and apart from the reporting indi-
25 vidual with the intention of terminating the marriage or

1 *providing for permanent separation, or with respect to any*
2 *income or obligations of an individual arising from the dis-*
3 *solution of his marriage or the permanent separation from*
4 *his spouse.*

5 “(f)(1) *Except as provided in paragraph (2), each re-*
6 *porting individual shall report the information required to*
7 *be reported pursuant to subsections (a), (b), and (c) with*
8 *respect to the holdings of and the income from a trust or*
9 *other financial arrangement from which income is received*
10 *by, or with respect to which a beneficial interest in prin-*
11 *cipal or income is held by, such individual, his spouse, or*
12 *any dependent child.*

13 “(2) *A reporting individual need not report the hold-*
14 *ings of or the source of income from any of the holdings*
15 *of—*

16 “(A) *any qualified blind trust (as defined in*
17 *paragraph (3));*

18 “(B) *a trust—*

19 “(i) *which was not created directly by such*
20 *individual, his spouse, or any dependent child,*
21 *and*

22 “(ii) *the holdings or sources of income of*
23 *which such individual, his spouse, and any de-*
24 *pendent child have no knowledge; or*

1 “(C) an entity described under the provisions of
2 paragraph (8), but such individual shall report the
3 category of the amount of income received by him, his
4 spouse, or any dependent child from the trust or other
5 entity under subsection (a)(1)(B).

6 “(3) For purposes of this subsection, the term ‘qualified
7 blind trust’ includes any trust in which a reporting indi-
8 vidual, his spouse, or any minor or dependent child has
9 a beneficial interest in the principal or income, and which
10 meets the following requirements:

11 “(A)(i) The trustee of the trust and any other en-
12 tity designated in the trust instrument to perform fi-
13 duciary duties is a financial institution, an attorney,
14 a certified public accountant, a broker, or an invest-
15 ment advisor who—

16 “(I) is independent of and not affiliated
17 with any interested party so that the trustee or
18 other person cannot be controlled or influenced
19 in the administration of the trust by any inter-
20 ested party;

21 “(II) is not and has not been an employee
22 of or affiliated with any interested party and is
23 not a partner of, or involved in any joint ven-
24 ture or other investment with, any interested
25 party; and

1 “(III) is not a relative of any interested
2 party.

3 “(i) Any officer or employee of a trustee or other
4 entity who is involved in the management or control
5 of the trust—

6 “(I) is independent of and not affiliated
7 with any interested party so that such officer or
8 employee cannot be controlled or influenced in
9 the administration of the trust by any interested
10 party;

11 “(II) is not a partner of, or involved in any
12 joint venture or other investment with, any in-
13 terested party; and

14 “(III) is not a relative of any interested
15 party.

16 “(B) Any asset transferred to the trust by an in-
17 terested party is free of any restriction with respect
18 to its transfer or sale unless such restriction is ex-
19 pressly approved by the Office of Government Ethics.

20 “(C) The trust instrument which establishes the
21 trust provides that—

22 “(i) except to the extent provided in sub-
23 paragraph (B), the trustee in the exercise of his
24 authority and discretion to manage and control

1 *the assets of the trust shall not consult or notify*
2 *any interested party;*

3 “(i) *the trust shall not contain any asset*
4 *the holding of which by an interested party is*
5 *prohibited by any law or regulation;*

6 “(iii) *the trustee shall promptly notify the*
7 *reporting individual and the Office of Govern-*
8 *ment Ethics when the holdings of any particular*
9 *asset transferred to the trust by any interested*
10 *party are disposed of or when the value of such*
11 *holding is less than \$1,000;*

12 “(iv) *the trust tax return shall be prepared*
13 *by the trustee or his designee, and such return*
14 *and any information relating thereto (other than*
15 *the trust income summarized in appropriate cat-*
16 *egories necessary to complete an interested par-*
17 *ty’s tax return), shall not be disclosed to any in-*
18 *terested party;*

19 “(v) *an interested party shall not receive*
20 *any report on the holdings and sources of income*
21 *of the trust, except a report at the end of each*
22 *calendar quarter with respect to the total cash*
23 *value of the interest of the interested party in the*
24 *trust or the net income or loss of the trust or any*
25 *reports necessary to enable the interested party*

1 to complete an individual tax return required by
2 law or to provide the information required by
3 subsection (a)(1) of this section, but such report
4 shall not identify any asset or holding;

5 “(vi) except for communications which sole-
6 ly consist of requests for distributions of cash or
7 other unspecified assets of the trust, there shall be
8 no direct or indirect communication between the
9 trustee and an interested party with respect to
10 the trust unless such communication is in writ-
11 ing and unless it relates only (I) to the general
12 financial interest and needs of the interested
13 party (including, but not limited to, an interest
14 in maximizing income or long-term capital
15 gain), (II) to the notification of the trustee of a
16 law or regulation subsequently applicable to the
17 reporting individual which prohibits the inter-
18 ested party from holding an asset, which notifi-
19 cation directs that the asset not be held by the
20 trust, or (III) to directions to the trustee to sell
21 all of an asset initially placed in the trust by an
22 interested party which in the determination of
23 the reporting individual creates a conflict of in-
24 terest or the appearance thereof due to the subse-
25 quent assumption of duties by the reporting in-

1 *dividual (but nothing herein shall require any*
2 *such direction); and*

3 “(vi) *the interested parties shall make no*
4 *effort to obtain information with respect to the*
5 *holdings of the trust, including obtaining a copy*
6 *of any trust tax return filed or any information*
7 *relating thereto except as otherwise provided in*
8 *this subsection.*

9 “(D) *The proposed trust instrument and the pro-*
10 *posed trustee is approved by the Office of Government*
11 *Ethics.*

12 “(E) *For purposes of this subsection, ‘interested*
13 *party’ means a reporting individual, his spouse, and*
14 *any minor or dependent child; ‘broker’ has the mean-*
15 *ing set forth in section 3(a)(4) of the Securities and*
16 *Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘in-*
17 *vestment adviser’ includes any investment adviser*
18 *who, as determined under regulations prescribed by*
19 *the supervising ethics office, is generally involved in*
20 *his role as such an adviser in the management or con-*
21 *trol of trusts.*

22 “(4)(A) *An asset placed in a trust by an interested*
23 *party shall be considered a financial interest of the report-*
24 *ing individual, for the purposes of any applicable conflict*
25 *of interest statutes, regulations, or rules of the Federal Gov-*

1 ernment (including section 208 of title 18, United States
2 Code), until such time as the reporting individual is noti-
3 fied by the trustee that such asset has been disposed of, or
4 has a value of less than \$1,000.

5 “(B)(i) The provisions of subparagraph (A) shall not
6 apply with respect to a trust created for the benefit of a
7 reporting individual, or the spouse, dependent child, or
8 minor child of such a person, if the Office of Government
9 Ethics finds that—

10 “(I) the assets placed in the trust consist of a
11 widely-diversified portfolio of readily marketable secu-
12 rities;

13 “(II) none of the assets consist of securities of en-
14 tities having substantial activities in the area of the
15 reporting individual’s primary area of responsibility;

16 “(III) the trust instrument prohibits the trustee,
17 notwithstanding the provisions of paragraph (3)(C)
18 (iii) and (iv), from making public or informing any
19 interested party of the sale of any securities;

20 “(IV) the trustee is given power of attorney, not-
21 withstanding the provisions of paragraph (3)(C)(v),
22 to prepare on behalf of any interested party the per-
23 sonal income tax returns and similar returns which
24 may contain information relating to the trust; and

1 “(V) *except as otherwise provided in this para-*
2 *graph, the trust instrument provides (or in the case*
3 *of a trust which by its terms does not permit amend-*
4 *ment, the trustee, the reporting individual, and any*
5 *other interested party agree in writing) that the trust*
6 *shall be administered in accordance with the require-*
7 *ments of this subsection and the trustee of such trust*
8 *meets the requirements of paragraph (3)(A).*

9 “(ii) *In any instance covered by subparagraph (B) in*
10 *which the reporting individual is an individual whose nom-*
11 *ination is being considered by a congressional committee,*
12 *the reporting individual shall inform the congressional com-*
13 *mittee considering his nomination before or during the pe-*
14 *riod of such individual’s confirmation hearing of his inten-*
15 *tion to comply with this paragraph.*

16 “(5)(A) *The reporting individual shall, within 30 days*
17 *after a qualified blind trust is approved by the Office of*
18 *Government Ethics, file with such office a copy of—*

19 “(i) *the executed trust instrument of such trust*
20 *(other than those provisions which relate to the testa-*
21 *mentary disposition of the trust assets), and*

22 “(ii) *a list of the assets which were transferred*
23 *to such trust, including the category of value of each*
24 *asset as determined under subsection (d).*

1 *This subparagraph shall not apply with respect to a trust*
2 *meeting the requirements for being considered a qualified*
3 *blind trust under paragraph (7).*

4 “(B) *The reporting individual shall, within 30 days*
5 *of transferring an asset (other than cash) to a previously*
6 *established qualified blind trust, notify the Office of Govern-*
7 *ment Ethics of the identity of each such asset and the cat-*
8 *egory of value of each asset as determined under subsection*
9 *(d).*

10 “(C) *Within 30 days of the dissolution of a qualified*
11 *blind trust, a reporting individual shall (i) notify the Office*
12 *of Government Ethics of such dissolution, and (ii) file with*
13 *such Office and his designated agency ethics official a copy*
14 *of a list of the assets of the trust at the time of such dissolu-*
15 *tion and the category of value under subsection (c) of each*
16 *such asset.*

17 “(D) *Documents filed under subparagraphs (A), (B),*
18 *and (C) and the lists provided by the trustee of assets placed*
19 *in the trust by an interested party which have been sold*
20 *shall be made available to the public in the same manner*
21 *as a report is made available under section 305 and the*
22 *provisions of that section shall apply with respect to such*
23 *documents and lists.*

24 “(E) *A copy of each written communication with re-*
25 *spect to the trust under paragraph (3)(C)(vi) shall be filed*

1 *by the person initiating the communication with the Office*
2 *of Government Ethics within 5 days of the date of the com-*
3 *munication.*

4 “(6)(A) *A trustee of a qualified blind trust shall not*
5 *knowingly and willfully, or negligently, (i) disclose any in-*
6 *formation to an interested party with respect to such trust*
7 *that may not be disclosed under paragraph (3); (ii) acquire*
8 *any holding the ownership of which is prohibited by the*
9 *trust instrument; (iii) solicit advice from any interested*
10 *party with respect to such trust, which solicitation is pro-*
11 *hibited by paragraph (3) or the trust agreement; or (iv)*
12 *fail to file any document required by this subsection.*

13 “(B) *A reporting individual shall not knowingly and*
14 *willfully, or negligently, (i) solicit or receive any informa-*
15 *tion with respect to a qualified blind trust of which he is*
16 *an interested party that may not be disclosed under para-*
17 *graph (3)(C) or (ii) fail to file any document required by*
18 *this subsection.*

19 “(C)(i) *The Attorney General may bring a civil action*
20 *in any appropriate United States district court against*
21 *any individual who knowingly and willfully violates the*
22 *provisions of subparagraph (A) or (B). The court in which*
23 *such action is brought may assess against such individual*
24 *a civil penalty in any amount not to exceed \$11,000.*

1 “(ii) *The Attorney General may bring a civil action*
2 *in any appropriate United States district court against*
3 *any individual who negligently violates the provisions of*
4 *subparagraph (A) or (B). The court in which such action*
5 *is brought may assess against such individual a civil pen-*
6 *alty in any amount not to exceed \$5,500.*

7 “(7) *Any trust may be considered to be a qualified*
8 *blind trust if—*

9 “(A) *the trust instrument is amended to comply*
10 *with the requirements of paragraph (3) or, in the case*
11 *of a trust instrument which does not by its terms per-*
12 *mit amendment, the trustee, the reporting individual,*
13 *and any other interested party agree in writing that*
14 *the trust shall be administered in accordance with the*
15 *requirements of this subsection and the trustee of such*
16 *trust meets the requirements of paragraph (3)(A); ex-*
17 *cept that in the case of any interested party who is*
18 *a dependent child, a parent or guardian of such child*
19 *may execute the agreement referred to in this sub-*
20 *paragraph;paragraph;*

21 “(B) *a copy of the trust instrument (except testa-*
22 *mentary provisions) and a copy of the agreement re-*
23 *ferred to in subparagraph (A), and a list of the assets*
24 *held by the trust at the time of approval by the Office*
25 *of Government Ethics, including the category of value*

1 of each asset as determined under subsection (d), are
2 filed with such office and made available to the public
3 as provided under paragraph (5)(D); and

4 “(C) the Director of the Office of Government
5 Ethics determines that approval of the trust arrange-
6 ment as a qualified blind trust is in the particular
7 case appropriate to assure compliance with applicable
8 laws and regulations.

9 “(8) A reporting individual shall not be required to
10 report the financial interests held by a widely held invest-
11 ment fund (whether such fund is a mutual fund, regulated
12 investment company, pension or deferred compensation
13 plan, or other investment fund), if—

14 “(A)(i) the fund is publicly traded; or

15 “(ii) the assets of the fund are widely diversified;
16 and

17 “(B) the reporting individual neither exercises
18 control over nor has the ability to exercise control
19 over the financial interests held by the fund.

20 “(9)(A) A reporting individual described in subsection
21 (a), (b), or (c) of section 301 shall not be required to report
22 the assets or sources of income of any publicly available
23 investment fund if—

24 “(i) the identity of such assets and sources of in-
25 come is not provided to investors;

1 “(ii) the reporting individual neither exercises
2 control over nor has the ability to exercise control
3 over the fund; and

4 “(iii) the reporting individual—

5 “(I) does not otherwise have knowledge of
6 the individual assets of the fund and provides
7 written certification by the fund manager that
8 individual assets of the fund are not disclosed to
9 investors; or

10 “(II) has executed a written ethics agree-
11 ment that contains a commitment to divest the
12 interest in the investment fund no later than 90
13 days after the date of the agreement.

14 The reporting individual shall file the written certification
15 by the fund manager as an attachment to the report filed
16 pursuant to section 301.

17 “(B) The provisions of subparagraph (A) shall apply
18 to an individual described in subsection (d) or (e) of section
19 301 if—

20 “(i) the interest in the trust or investment fund
21 is acquired, during the period to be covered by the re-
22 port, involuntarily (such as through inheritance) or
23 as a legal incident of marriage; and

24 “(ii) for an individual described in subsection
25 (d), the individual executes a written ethics agreement

1 *containing a commitment to divest the interest no*
2 *later than 90 days after the date the report is due.*
3 *Failure to divest within the time specified or within an*
4 *extension period granted by the supervising ethics office for*
5 *good cause shown shall result in an immediate requirement*
6 *to report as specified in paragraph (1).*

7 *“(g) Political campaign funds, including campaign re-*
8 *ceipts and expenditures, need not be included in any report*
9 *filed pursuant to this title.*

10 *“(h) A report filed pursuant to subsection (a), (c), or*
11 *(d) of section 301 need not contain the information de-*
12 *scribed in subparagraphs (A), (B), and (C) of subsection*
13 *(a)(2) with respect to gifts and reimbursements received in*
14 *a period when the reporting individual was not an officer*
15 *or employee of the Federal Government.*

16 *“(i) A reporting individual shall not be required under*
17 *this title to report—*

18 *“(1) financial interests in or income derived*
19 *from—*

20 *“(A) any retirement system under title 5,*
21 *United States Code (including the Thrift Sav-*
22 *ings Plan under subchapter III of chapter 84 of*
23 *such title); or*

24 *“(B) any other retirement system main-*
25 *tained by the United States for officers or em-*

1 *ployees of the United States, including the Presi-*
2 *dent, or for members of the uniformed services; or*
3 *“(2) benefits received under the Social Security*
4 *Act (42 U.S.C. 301 et seq.).*

5 **“SEC. 303. FILING OF REPORTS.**

6 *“(a) Except as otherwise provided in this section, the*
7 *reports required under this title shall be filed by the report-*
8 *ing individual with the designated agency ethics official at*
9 *the agency by which he is employed (or in the case of an*
10 *individual described in section 301(d), was employed) or*
11 *in which he will serve. The date any report is received (and*
12 *the date of receipt of any supplemental report) shall be*
13 *noted on such report by such official.*

14 *“(b) Reports required of members of the uniformed*
15 *services shall be filed with the Secretary concerned.*

16 *“(c) The Office of Government Ethics shall develop and*
17 *make available forms for reporting the information required*
18 *by this title.*

19 **“SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

20 *“(a) The Attorney General may bring a civil action*
21 *in any appropriate United States district court against*
22 *any individual who knowingly and willfully falsifies or who*
23 *knowingly and willfully fails to file or report any informa-*
24 *tion that such individual is required to report pursuant to*
25 *section 302. The court in which such action is brought may*

1 *assess against such individual a civil penalty in any*
2 *amount, not to exceed \$11,000, order the individual to file*
3 *or report any information required by section 302, or both.*

4 “(b) *The head of each agency, each Secretary con-*
5 *cerned, or the Director of the Office of Government Ethics,*
6 *as the case may be, shall refer to the Attorney General the*
7 *name of any individual which such official has reasonable*
8 *cause to believe has willfully failed to file a report or has*
9 *willfully falsified or willfully failed to file information re-*
10 *quired to be reported.*

11 “(c) *The President, the Vice President, the Secretary*
12 *concerned, or the head of each agency may take any appro-*
13 *priate personnel or other action in accordance with appli-*
14 *cable law or regulation against any individual failing to*
15 *file a report or falsifying or failing to report information*
16 *required to be reported.*

17 “(d)(1) *Any individual who files a report required to*
18 *be filed under this title more than 30 days after the later*
19 *of—*

20 “(A) *the date such report is required to be filed*
21 *pursuant to the provisions of this title and the rules*
22 *and regulations promulgated thereunder; or*

23 “(B) *if a filing extension is granted to such indi-*
24 *vidual under section 301(g), the last day of the filing*
25 *extension period, shall, at the direction of and pursu-*

1 *ant to regulations issued by the Office of Government*
2 *Ethics, pay a filing fee of \$500. All such fees shall be*
3 *deposited in the miscellaneous receipts of the Treas-*
4 *ury. The authority under this paragraph to direct the*
5 *payment of a filing fee may be delegated by the Office*
6 *of Government Ethics to other agencies in the execu-*
7 *tive branch.*

8 *“(2) The Office of Government Ethics may waive the*
9 *filing fee under this subsection for good cause shown.*

10 **“SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

11 *“Any report filed with or transmitted to an agency*
12 *or the Office of Government Ethics pursuant to this title*
13 *shall be made available to the public (in the same manner*
14 *as described in section 105) and retained by such agency*
15 *or Office, as the case may be, for a period of 6 years after*
16 *receipt of the report. After such 6-year period the report*
17 *shall be destroyed unless needed in an ongoing investiga-*
18 *tion, except that in the case of an individual who filed the*
19 *report pursuant to section 301(b) and was not subsequently*
20 *confirmed by the Senate, such reports shall be destroyed 1*
21 *year after the individual is no longer under consideration*
22 *by the Senate, unless needed in an ongoing investigation.*

23 **“SEC. 306. REVIEW OF REPORTS.**

24 *“(a) Each designated agency ethics official or Sec-*
25 *retary concerned shall make provisions to ensure that each*

1 report filed with him under this title is reviewed within
2 60 days after the date of such filing, except that the Director
3 of the Office of Government Ethics shall review only those
4 reports required to be transmitted to him under this title
5 within 60 days after the date of transmittal.

6 “(b)(1) If after reviewing any report under subsection
7 (a), the Director of the Office of Government Ethics, the
8 Secretary concerned, or the designated agency ethics official,
9 as the case may be, is of the opinion that on the basis of
10 information contained in such report the individual sub-
11 mitting such report is in compliance with applicable laws
12 and regulations, he shall state such opinion on the report,
13 and shall sign such report.

14 “(2) If the Director of the Office of Government Ethics,
15 the Secretary concerned, or the designated agency ethics of-
16 ficial after reviewing any report under subsection (a)—

17 “(A) believes additional information is required
18 to be submitted to complete the report or to perform
19 a conflict of interest analysis, he shall notify the indi-
20 vidual submitting such report what additional infor-
21 mation is required and the time by which it must be
22 submitted, or

23 “(B) is of the opinion, on the basis of informa-
24 tion submitted, that the individual is not in compli-
25 ance with applicable laws and regulations, he shall

1 *notify the individual, afford a reasonable opportunity*
2 *for a written or oral response, and after consideration*
3 *of such response, reach an opinion as to whether or*
4 *not, on the basis of information submitted, the indi-*
5 *vidual is in compliance with such laws and regula-*
6 *tions.*

7 “(3) *If the Director of the Office of Government Ethics,*
8 *the Secretary concerned, or the designated agency ethics of-*
9 *ficial reaches an opinion under paragraph (2)(B) that an*
10 *individual is not in compliance with applicable laws and*
11 *regulations, the official shall notify the individual of that*
12 *opinion and, after an opportunity for personal consultation*
13 *(if practicable), determine and notify the individual of*
14 *which steps, if any, would in the opinion of such official*
15 *be appropriate for assuring compliance with such laws and*
16 *regulations and the date by which such steps should be*
17 *taken. Such steps may include, as appropriate—*

18 “(A) *divestiture,*

19 “(B) *restitution,*

20 “(C) *the establishment of a blind trust,*

21 “(D) *request for an exemption under section*
22 *208(b) of title 18, United States Code, or*

23 “(E) *voluntary request for transfer, reassign-*
24 *ment, limitation of duties, or resignation.*

1 *The use of any such steps shall be in accordance with such*
2 *rules or regulations as the Office of Government Ethics may*
3 *prescribe.*

4 “(4) *If steps for assuring compliance with applicable*
5 *laws and regulations are not taken by the date set under*
6 *paragraph (3) by an individual in a position in the execu-*
7 *tive branch, appointment to which requires the advice and*
8 *consent of the Senate, the matter shall be referred to the*
9 *President for appropriate action.*

10 “(5) *If steps for assuring compliance with applicable*
11 *laws and regulations are not taken by the date set under*
12 *paragraph (3) by a member of the Foreign Service or the*
13 *uniformed services, the Secretary concerned shall take ap-*
14 *propriate action.*

15 “(6) *If steps for assuring compliance with applicable*
16 *laws and regulations are not taken by the date set under*
17 *paragraph (3) by any other officer or employee, the matter*
18 *shall be referred to the head of the appropriate agency for*
19 *appropriate action.*

20 “(7) *The Office of Government Ethics may render ad-*
21 *visory opinions interpreting this title. Notwithstanding any*
22 *other provision of law, the individual to whom a public*
23 *advisory opinion is rendered in accordance with this para-*
24 *graph, and any other individual covered by this title who*
25 *is involved in a fact situation which is indistinguishable*

1 *in all material aspects, and who acts in good faith in ac-*
2 *cordance with the provisions and findings of such advisory*
3 *opinion shall not, as a result of such act, be subject to any*
4 *penalty or sanction provided by this title.*

5 **“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-**
6 **TIONAL REQUIREMENTS.**

7 “(a)(1) *The Office of Government Ethics may require*
8 *officers and employees of the executive branch (including*
9 *special Government employees as defined in section 202 of*
10 *title 18, United States Code) to file confidential financial*
11 *disclosure reports, in such form as it may prescribe. The*
12 *information required to be reported under this subsection*
13 *by the officers and employees of any department or agency*
14 *listed in section 301(e) shall be set forth in rules or regula-*
15 *tions prescribed by the Office of Government Ethics, and*
16 *may be less extensive than otherwise required by this title,*
17 *or more extensive when determined by the Office of Govern-*
18 *ment Ethics to be necessary and appropriate in light of sec-*
19 *tions 202 through 209 of title 18, United States Code, regu-*
20 *lations promulgated thereunder, or the authorized activities*
21 *of such officers or employees. Any individual required to*
22 *file a report pursuant to section 301 shall not be required*
23 *to file a confidential report pursuant to this subsection, ex-*
24 *cept with respect to information which is more extensive*

1 *than information otherwise required by this title. Section*
2 *305 shall not apply with respect to any such report.*

3 “(2) *Any information required to be provided by an*
4 *individual under this subsection shall be confidential and*
5 *shall not be disclosed to the public.*

6 “(3) *Nothing in this subsection exempts any indi-*
7 *vidual otherwise covered by the requirement to file a public*
8 *financial disclosure report under this title from such re-*
9 *quirement.*

10 “(b) *The provisions of this title requiring the reporting*
11 *of information shall supersede any general requirement*
12 *under any other provision of law or regulation with respect*
13 *to the reporting of information required for purposes of pre-*
14 *venting conflicts of interest or apparent conflicts of interest.*
15 *Such provisions of this title shall not supersede the require-*
16 *ments of section 7342 of title 5, United States Code.*

17 “(c) *Nothing in this Act requiring reporting of infor-*
18 *mation shall be deemed to authorize the receipt of income,*
19 *gifts, or reimbursements; the holding of assets, liabilities,*
20 *or positions; or the participation in transactions that are*
21 *prohibited by law, Executive order, rule, or regulation.*

22 **“SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

23 *“The Comptroller General shall have access to finan-*
24 *cial disclosure reports filed under this title for the purposes*
25 *of carrying out his statutory responsibilities.*

1 **“SEC. 309. DEFINITIONS.**

2 *“For the purposes of this title—*

3 *“(1) the term ‘dependent child’ means, when used*
4 *with respect to any reporting individual, any indi-*
5 *vidual who is a son, daughter, stepson, or step-*
6 *daughter and who—*

7 *“(A) is unmarried and under age 21 and is*
8 *living in the household of such reporting indi-*
9 *vidual; or*

10 *“(B) is a dependent of such reporting indi-*
11 *vidual within the meaning of section 152 of the*
12 *Internal Revenue Code of 1986 (26 U.S.C. 152);*

13 *“(2) the term ‘designated agency ethics official’*
14 *means an officer or employee who is designated to ad-*
15 *minister the provisions of this title within an agency;*

16 *“(3) the term ‘executive branch’ includes—*

17 *“(A) each Executive agency (as defined in*
18 *section 105 of title 5, United States Code), other*
19 *than the General Accounting Office; and*

20 *“(B) any other entity or administrative*
21 *unit in the executive branch;*

22 *“(4) the term ‘gift’ means a payment, advance,*
23 *forbearance, rendering, or deposit of money, or any*
24 *thing of value, unless consideration of equal or greater*
25 *value is received by the donor, but does not include—*

1 “(A) bequests and other forms of inher-
2 ance;

3 “(B) suitable mementos of a function hon-
4 oring the reporting individual;

5 “(C) food, lodging, transportation, and en-
6 tertainment provided by a foreign government
7 within a foreign country or by the United States
8 Government, the District of Columbia, or a State
9 or local government or political subdivision
10 thereof;

11 “(D) food and beverages which are not con-
12 sumed in connection with a gift of overnight
13 lodging;

14 “(E) communications to the offices of a re-
15 porting individual, including subscriptions to
16 newspapers and periodicals; or

17 “(F) items that are accepted pursuant to or
18 are required to be reported by the reporting indi-
19 vidual under section 7342 of title 5, United
20 States Code.

21 “(5) the term ‘honorarium’ means a payment of
22 money or anything of value for an appearance,
23 speech, or article;

24 “(6) the term ‘income’ means all income from
25 whatever source derived, including but not limited to

1 *the following items: compensation for services, includ-*
2 *ing fees, commissions, and similar items; gross in-*
3 *come derived from business (and net income if the in-*
4 *dividual elects to include it); gains derived from deal-*
5 *ings in property; interest; rents; royalties; prizes and*
6 *awards; dividends; annuities; income from life insur-*
7 *ance and endowment contracts; pensions; income from*
8 *discharge of indebtedness; distributive share of part-*
9 *nership income; and income from an interest in an*
10 *estate or trust;*

11 “(7) the term ‘personal hospitality of any indi-

12 *vidual’ means hospitality extended for a nonbusiness*
13 *purpose by an individual, not a corporation or orga-*
14 *nization, at the personal residence of that individual*
15 *or his family or on property or facilities owned by*
16 *that individual or his family;*

17 “(8) the term ‘reimbursement’ means any pay-

18 *ment or other thing of value received by the reporting*
19 *individual, other than gifts, to cover travel-related ex-*
20 *penses of such individual other than those which*
21 *are—*

22 “(A) provided by the United States Govern-

23 *ment, the District of Columbia, or a State or*
24 *local government or political subdivision thereof;*

1 “(B) required to be reported by the report-
2 ing individual under section 7342 of title 5,
3 United States Code; or

4 “(C) required to be reported under section
5 304 of the Federal Election Campaign Act of
6 1971 (2 U.S.C. 434);

7 “(9) the term ‘relative’ means an individual who
8 is related to the reporting individual, as father, moth-
9 er, son, daughter, brother, sister, uncle, aunt, great
10 aunt, great uncle, first cousin, nephew, niece, hus-
11 band, wife, grandfather, grandmother, grandson,
12 granddaughter, father-in-law, mother-in-law, son-in-
13 law, daughter-in-law, brother-in-law, sister-in-law,
14 stepfather, stepmother, stepson, stepdaughter, step-
15 brother, stepsister, half brother, half sister, or who is
16 the grandfather or grandmother of the spouse of the
17 reporting individual, and shall be deemed to include
18 the fiancé or fiancée of the reporting individual;

19 “(10) the term ‘Secretary concerned’ has the
20 meaning set forth in section 101(a)(9) of title 10,
21 United States Code; and

22 “(11) the term ‘value’ means a good faith esti-
23 mate of the dollar value if the exact value is neither
24 known nor easily obtainable by the reporting indi-
25 vidual.

1 **“SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH**
2 **ETHICS AGREEMENTS.**

3 “(a) *In any case in which an individual agrees with*
4 *that individual’s designated agency ethics official, the Office*
5 *of Government Ethics, or a Senate confirmation committee,*
6 *to take any action to comply with this Act or any other*
7 *law or regulation governing conflicts of interest of, or estab-*
8 *lishing standards of conduct applicable with respect to, offi-*
9 *cers or employees of the Government, that individual shall*
10 *notify in writing the designated agency ethics official, the*
11 *Office of Government Ethics, or the appropriate committee*
12 *of the Senate, as the case may be, of any action taken by*
13 *the individual pursuant to that agreement. Such notifica-*
14 *tion shall be made not later than the date specified in the*
15 *agreement by which action by the individual must be taken,*
16 *or not later than 3 months after the date of the agreement,*
17 *if no date for action is so specified. If all actions agreed*
18 *to have not been completed by the date of this notification,*
19 *such notification shall continue on a monthly basis there-*
20 *after until the individual has met the terms of the agree-*
21 *ment.*

22 “(b) *If an agreement described in subsection (a) re-*
23 *quires that the individual recuse himself or herself from*
24 *particular categories of agency or other official action, the*
25 *individual shall reduce to writing those subjects regarding*
26 *which the recusal agreement will apply and the process by*

1 *which it will be determined whether the individual must*
2 *recuse himself or herself in a specific instance. An indi-*
3 *vidual shall be considered to have complied with the re-*
4 *quirements of subsection (a) with respect to such recusal*
5 *agreement if such individual files a copy of the document*
6 *setting forth the information described in the preceding sen-*
7 *tence with such individual's designated agency ethics offi-*
8 *cial or the Office of Government Ethics not later than the*
9 *date specified in the agreement by which action by the indi-*
10 *vidual must be taken, or not later than 3 months after the*
11 *date of the agreement, if no date for action is so specified.*

12 **“SEC. 311. ADMINISTRATION OF PROVISIONS.**

13 *“The Office of Government Ethics shall issue regula-*
14 *tions, develop forms, and provide such guidance as is nec-*
15 *essary to implement and interpret this title.”.*

16 *(b) EXEMPTION FROM PUBLIC ACCESS TO FINANCIAL*
17 *DISCLOSURES.—Section 105(a)(1) of such Act is amended*
18 *by inserting “the Office of the National Intelligence Direc-*
19 *tor,” before “the Central Intelligence Agency”.*

20 *(c) CONFORMING AMENDMENT.—Section 101(f) of such*
21 *Act is amended—*

22 *(1) in paragraph (12), by striking the period at*
23 *the end and inserting a semicolon; and*

24 *(2) by adding at the end the following:*

1 *“but do not include any officer or employee of any depart-*
2 *ment or agency listed in section 301(e).”*

3 **SEC. 5044. REDUCTION OF POSITIONS REQUIRING APPOINT-**
4 **MENT WITH SENATE CONFIRMATION.**

5 (a) *DEFINITION.*—*In this section, the term “agency”*
6 *means an Executive agency, as defined under section 105*
7 *of title 5, United States Code.*

8 (b) *REDUCTION PLAN.*—

9 (1) *IN GENERAL.*—*Not later than 180 days after*
10 *the date of enactment of this Act, the head of each*
11 *agency shall submit a Presidential appointment re-*
12 *duction plan to—*

13 (A) *the President;*

14 (B) *the Committee on Governmental Affairs*
15 *of the Senate; and*

16 (C) *the Committee on Government Reform*
17 *of the House of Representatives.*

18 (2) *CONTENT.*—*The plan under this subsection*
19 *shall provide for the reduction of—*

20 (A) *the number of positions within that*
21 *agency that require an appointment by the*
22 *President, by and with the advice and consent of*
23 *the Senate; and*

24 (B) *the number of levels of such positions*
25 *within that agency.*

1 **SEC. 5045. EFFECTIVE DATES.**

2 (a) SECTION 5043.—

3 (1) *IN GENERAL.*—Subject to paragraph (2), the
4 amendments made by section 5043 shall take effect on
5 January 1 of the year following the year in which oc-
6 curs the date of enactment of this Act.

7 (2) *LATER DATE.*—If this Act is enacted on or
8 after July 1 of a year, the amendments made by sec-
9 tion 301 shall take effect on July 1 of the following
10 year.

11 (b) SECTION 5044.—Section 5044 shall take effect on
12 the date of enactment of this Act.

13 **CHAPTER 2—FEDERAL BUREAU OF**
14 **INVESTIGATION REVITALIZATION**

15 **SEC. 5051. MANDATORY SEPARATION AGE.**

16 (a) *CIVIL SERVICE RETIREMENT SYSTEM.*—Section
17 8335(b) of title 5, United States Code, is amended—

18 (1) by striking “(b)” and inserting “(b)(1)”; and

19 (2) by adding at the end the following:

20 “(2) *In the case of employees of the Federal Bureau*
21 *of Investigation, the second sentence of paragraph (1) shall*
22 *be applied by substituting ‘65 years of age’ for ‘60 years*
23 *of age’. The authority to grant exemptions in accordance*
24 *with the preceding sentence shall cease to be available after*
25 *December 31, 2009.’”.*

1 (b) *FEDERAL EMPLOYEES' RETIREMENT SYSTEM.*—
2 *Section 8425(b) of title 5, United States Code, is*
3 *amended—*

4 (1) *by striking “(b)” and inserting “(b)(1)”;* and
5 (2) *by adding at the end the following:*

6 “(2) *In the case of employees of the Federal Bureau*
7 *of Investigation, the second sentence of paragraph (1) shall*
8 *be applied by substituting ‘65 years of age’ for ‘60 years*
9 *of age’. The authority to grant exemptions in accordance*
10 *with the preceding sentence shall cease to be available after*
11 *December 31, 2009.”.*

12 **SEC. 5052. RETENTION AND RELOCATION BONUSES.**

13 (a) *IN GENERAL.*—*Subchapter IV of chapter 57 of title*
14 *5, United States Code, is amended by adding at the end*
15 *the following:*

16 **“§5759. Retention and relocation bonuses for the Fed-**
17 **eral Bureau of Investigation**

18 “(a) *AUTHORITY.*—*The Director of the Federal Bureau*
19 *of Investigation, after consultation with the Director of the*
20 *Office of Personnel Management, may pay, on a case-by-*
21 *case basis, a bonus under this section to an employee of*
22 *the Bureau if—*

23 “(1)(A) *the unusually high or unique qualifica-*
24 *tions of the employee or a special need of the Bureau*

1 *for the employee's services makes it essential to retain*
2 *the employee; and*

3 “(B) *the Director of the Federal Bureau of Inves-*
4 *tigation determines that, in the absence of such a*
5 *bonus, the employee would be likely to leave—*

6 “(i) *the Federal service; or*

7 “(ii) *for a different position in the Federal*
8 *service; or*

9 “(2) *the individual is transferred to a different*
10 *geographic area with a higher cost of living (as deter-*
11 *mined by the Director of the Federal Bureau of Inves-*
12 *tigation).*

13 “(b) *SERVICE AGREEMENT.—Payment of a bonus*
14 *under this section is contingent upon the employee entering*
15 *into a written service agreement with the Bureau to com-*
16 *plete a period of service, not to exceed 4 years, with the*
17 *Bureau. Such agreement shall include—*

18 “(1) *the period of service the individual shall be*
19 *required to complete in return for the bonus; and*

20 “(2) *the conditions under which the agreement*
21 *may be terminated before the agreed-upon service pe-*
22 *riod has been completed, and the effect of the termi-*
23 *nation.*

24 “(c) *LIMITATIONS ON AUTHORITY.—A bonus paid*
25 *under this section—*

1 “(1) shall not exceed 50 percent of the annual
2 rate of basic pay of the employee as of the beginning
3 of the period of service (established under subsection
4 (b)) multiplied by the number of years (including a
5 fractional part of a year) in the required period of
6 service of the employee involved, but shall in no event
7 exceed 100 percent of the annual rate of basic pay of
8 the employee as of the beginning of the service period;
9 and

10 “(2) may not be paid to an individual who is
11 appointed to or who holds a position—

12 “(A) to which an individual is appointed
13 by the President, by and with the advice and
14 consent of the Senate; or

15 “(B) in the Senior Executive Service as a
16 noncareer appointee (as defined in section
17 3132(a)).

18 “(d) *IMPACT ON BASIC PAY.*—A retention bonus is not
19 part of the basic pay of an employee for any purpose.

20 “(e) *TERMINATION OF AUTHORITY.*—The authority to
21 grant bonuses under this section shall cease to be available
22 after December 31, 2009.”.

23 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
24 57 of title 5, United States Code, is amended by adding
25 at the end the following:

“5759. Retention and relocation bonuses for the Federal Bureau of Investigation.”.

1 **SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE**

2 **SERVICE.**

3 *(a) IN GENERAL.—Chapter 35 of title 5, United States*
4 *Code, is amended by adding at the end the following:*

5 **“SUBCHAPTER VII—RETENTION OF RETIRED**
6 **SPECIALIZED EMPLOYEES AT THE FEDERAL**
7 **BUREAU OF INVESTIGATION**

8 **“§ 3598. Federal Bureau of Investigation Reserve Serv-**
9 **ice**

10 *“(a) ESTABLISHMENT.—The Director of the Federal*
11 *Bureau of Investigation may provide for the establishment*
12 *and training of a Federal Bureau of Investigation Reserve*
13 *Service (hereinafter in this section referred to as the ‘FBI*
14 *Reserve Service’) for temporary reemployment of employees*
15 *in the Bureau during periods of emergency, as determined*
16 *by the Director.*

17 *“(b) MEMBERSHIP.—Membership in the FBI Reserve*
18 *Service shall be limited to individuals who previously*
19 *served as full-time employees of the Bureau.*

20 *“(c) ANNUITANTS.—If an individual receiving an an-*
21 *nuity from the Civil Service Retirement and Disability*
22 *Fund on the basis of such individual’s service becomes tem-*
23 *porarily reemployed pursuant to this section, such annuity*
24 *shall not be discontinued thereby. An individual so reem-*

1 *ployed shall not be considered an employee for the purposes*
 2 *of chapter 83 or 84.*

3 “(d) *NO IMPACT ON BUREAU PERSONNEL CEILING.—*
 4 *FBI Reserve Service members reemployed on a temporary*
 5 *basis pursuant to this section shall not count against any*
 6 *personnel ceiling applicable to the Bureau.*

7 “(e) *EXPENSES.—The Director may provide members*
 8 *of the FBI Reserve Service transportation and per diem in*
 9 *lieu of subsistence, in accordance with applicable provisions*
 10 *of this title, for the purpose of participating in any training*
 11 *that relates to service as a member of the FBI Reserve Serv-*
 12 *ice.*

13 “(f) *LIMITATION ON MEMBERSHIP.—Membership of*
 14 *the FBI Reserve Service is not to exceed 500 members at*
 15 *any given time.*

16 “(g) *LIMITATION ON DURATION OF SERVICE.—An in-*
 17 *dividual may not be reemployed under this section for more*
 18 *than 180 days in connection with any particular emergency*
 19 *unless, in the judgment of the Director, the public interest*
 20 *so requires.”.*

21 “(b) *CLERICAL AMENDMENT.—The analysis for chapter*
 22 *35 of title 5, United States Code, is amended by adding*
 23 *at the end the following:*

“SUBCHAPTER VII--RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE
 FEDERAL BUREAU OF INVESTIGATION

“3598. *Federal Bureau of Investigation Reserve Service.*”.

1 **SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU**
2 **OF INVESTIGATION INTELLIGENCE DIREC-**
3 **TORATE.**

4 *Section 5377(a)(2) of title 5, United States Code, is*
5 *amended—*

6 *(1) by striking “and” at the end of subpara-*
7 *graph (E);*

8 *(2) by striking the period at the end of subpara-*
9 *graph (F) and inserting “; and”; and*

10 *(3) by inserting after subparagraph (F) the fol-*
11 *lowing:*

12 *“(G) a position at the Federal Bureau of*
13 *Investigation, the primary duties and respon-*
14 *sibilities of which relate to intelligence functions*
15 *(as determined by the Director of the Federal*
16 *Bureau of Investigation).”.*

17 **CHAPTER 3—REPORTING REQUIREMENT**

18 **SEC. 5061. REPORTING REQUIREMENT.**

19 *The President shall, within 6 months after the date*
20 *of enactment of this Act, submit to Congress a report that—*

21 *(1) evaluates the hiring policies of the Federal*
22 *Government with respect to its foreign language needs*
23 *and the war on terrorism, including an analysis of*
24 *the personnel requirements at the Federal Bureau of*
25 *Investigation, the Central Intelligence Agency, the De-*
26 *partment of Homeland Security, the Department of*

1 *State, the Department of Defense, and all other Fed-*
2 *eral agencies the President identifies as having re-*
3 *sponsibilities in the war on terrorism;*

4 *(2) describes with respect to each agency identi-*
5 *fied under paragraph (1) the Federal Government's*
6 *current workforce capabilities with respect to its for-*
7 *ign language needs and the war on terrorism;*

8 *(3) summarizes for each agency identified under*
9 *paragraph (1) any shortfall in the Federal Govern-*
10 *ment's workforce capabilities relative to its foreign*
11 *language needs with respect to the war on terrorism;*
12 *and*

13 *(4) provides a specific plan to eliminate any*
14 *shortfalls identified under paragraph (3) and a cost*
15 *estimate, by agency, for eliminating those shortfalls.*

16 ***Subtitle F—Security Clearance***
17 ***Modernization***

18 ***SEC. 5071. DEFINITIONS.***

19 *In this subtitle:*

20 *(1) The term “Director” means the National In-*
21 *telligence Director.*

22 *(2) The term “agency” means—*

23 *(A) an executive agency, as defined in sec-*
24 *tion 105 of title 5, United States Code;*

1 (B) a military department, as defined in
2 section 102 of title 5, United States Code; and

3 (C) elements of the intelligence community,
4 as defined in section 3(4) of the National Security
5 Act of 1947 (50 U.S.C. 401a(4)).

6 (3) The term “authorized investigative agency”
7 means an agency authorized by law, regulation or di-
8 rection of the Director to conduct a counterintel-
9 ligence investigation or investigation of persons who
10 are proposed for access to classified information to as-
11 certain whether such persons satisfy the criteria for
12 obtaining and retaining access to such information.

13 (4) The term “authorized adjudicative agency”
14 means an agency authorized by law, regulation or di-
15 rection of the Director to determine eligibility for ac-
16 cess to classified information in accordance with Ex-
17 ecutive Order No. 12968.

18 (5) The term “highly sensitive program”
19 means—

20 (A) a government program designated as a
21 Special Access Program (as defined by section
22 4.1(h) of Executive Order No. 12958); and

23 (B) a government program that applies re-
24 strictions required for—

1 (i) *Restricted Data* (as defined by sec-
2 tion 11 y. of the Atomic Energy Act of 1954
3 (42 U.S.C. 2014(y)); or

4 (ii) *other information commonly re-*
5 *ferred to as “Sensitive Compartmented In-*
6 *formation”.*

7 (6) *The term “current investigation file” means,*
8 *with respect to a security clearance, a file on an in-*
9 *vestigation or adjudication that has been conducted*
10 *during—*

11 (A) *the 5-year period beginning on the date*
12 *the security clearance was granted, in the case of*
13 *a Top Secret Clearance, or the date access was*
14 *granted to a highly sensitive program;*

15 (B) *the 10-year period beginning on the*
16 *date the security clearance was granted in the*
17 *case of a Secret Clearance; and*

18 (C) *the 15-year period beginning on the*
19 *date the security clearance was granted in the*
20 *case of a Confidential Clearance.*

21 (7) *The term “personnel security investigation”*
22 *means any investigation required for the purpose of*
23 *determining the eligibility of any military, civilian,*
24 *or government contractor personnel to access classified*
25 *information.*

1 (8) *The term “periodic reinvestigations”*
2 *means—*

3 (A) *investigations conducted for the purpose*
4 *of updating a previously completed background*
5 *investigation—*

6 (i) *every five years in the case of a Top*
7 *Secret Clearance or access to a highly sen-*
8 *sitive program;*

9 (ii) *every 10 years in the case of a Se-*
10 *cret Clearance; and*

11 (iii) *every 15 years in the case of a*
12 *Confidential Clearance;*

13 (B) *on-going investigations to identify per-*
14 *sonnel security risks as they develop, pursuant to*
15 *section 5075(c).*

16 (9) *The term “appropriate committees of Con-*
17 *gress” means—*

18 (A) *the Permanent Select Committee on In-*
19 *telligence and the Committees on Armed Serv-*
20 *ices, Judiciary, and Government Reform of the*
21 *House of Representatives; and*

22 (B) *the Select Committee on Intelligence*
23 *and the Committees on Armed Services, Judici-*
24 *ary, and Governmental Affairs of the Senate.*

1 **SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PRO-**
2 **GRAMS OVERSIGHT AND ADMINISTRATION.**

3 *The Deputy National Intelligence Director for Commu-*
4 *nity Management and Resources shall have responsibility*
5 *for the following:*

6 (1) *Directing day-to-day oversight of investiga-*
7 *tions and adjudications for personnel security clear-*
8 *ances and highly sensitive programs throughout the*
9 *Federal Government.*

10 (2) *Developing and implementing uniform and*
11 *consistent policies and procedures to ensure the effec-*
12 *tive, efficient, and timely completion of security clear-*
13 *ances and determinations for access to highly sen-*
14 *sitive programs, including the standardization of se-*
15 *curity questionnaires, financial disclosure require-*
16 *ments for security clearance applicants, and poly-*
17 *graph policies and procedures.*

18 (3) *Serving as the final authority to designate*
19 *an authorized investigative agency or authorized ad-*
20 *judicative agency pursuant to section 5074(d).*

21 (4) *Ensuring reciprocal recognition of access to*
22 *classified information among agencies, including act-*
23 *ing as the final authority to arbitrate and resolve dis-*
24 *putes involving the reciprocity of security clearances*
25 *and access to highly sensitive programs.*

1 (5) *Ensuring, to the maximum extent prac-*
2 *ticable, that sufficient resources are available in each*
3 *agency to achieve clearance and investigative pro-*
4 *gram goals.*

5 (6) *Reviewing and coordinating the development*
6 *of tools and techniques for enhancing the conduct of*
7 *investigations and granting of clearances.*

8 **SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND AC-**
9 **CESS DETERMINATIONS.**

10 (a) *REQUIREMENT FOR RECIPROCITY.—(1) All secu-*
11 *rity clearance background investigations and determina-*
12 *tions completed by an authorized investigative agency or*
13 *authorized adjudicative agency shall be accepted by all*
14 *agencies.*

15 (2) *All security clearance background investigations*
16 *initiated by an authorized investigative agency shall be*
17 *transferable to any other authorized investigative agency.*

18 (b) *PROHIBITION ON ESTABLISHING ADDITIONAL.—*
19 (1) *An authorized investigative agency or authorized adju-*
20 *dicative agency may not establish additional investigative*
21 *or adjudicative requirements (other than requirements for*
22 *the conduct of a polygraph examination) that exceed re-*
23 *quirements specified in Executive orders establishing secu-*
24 *rity requirements for access to classified information.*

1 (2) *Notwithstanding the paragraph (1), the Director*
2 *may establish additional requirements as needed for na-*
3 *tional security purposes.*

4 (c) *PROHIBITION ON DUPLICATIVE INVESTIGATIONS.—*
5 *An authorized investigative agency or authorized adjudica-*
6 *tive agency may not conduct an investigation for purposes*
7 *of determining whether to grant a security clearance to an*
8 *individual where a current investigation or clearance of*
9 *equal level already exists or has been granted by another*
10 *authorized adjudicative agency.*

11 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE.**

12 (a) *ESTABLISHMENT.—Not later than 12 months after*
13 *the date of the enactment of this Act, the Director of the*
14 *Office of Personnel Management, in cooperation with the*
15 *Director, shall establish, and begin operating and main-*
16 *taining, an integrated, secure, national database into which*
17 *appropriate data relevant to the granting, denial, or revoca-*
18 *tion of a security clearance or access pertaining to military,*
19 *civilian, or government contractor personnel shall be en-*
20 *tered from all authorized investigative and adjudicative*
21 *agencies.*

22 (b) *INTEGRATION.—The national database established*
23 *under subsection (a) shall function to integrate information*
24 *from existing Federal clearance tracking systems from other*

1 *authorized investigative and adjudicative agencies into a*
2 *single consolidated database.*

3 (c) *REQUIREMENT TO CHECK DATABASE.*—*Each au-*
4 *thorized investigative or adjudicative agency shall check the*
5 *national database established under subsection (a) to deter-*
6 *mine whether an individual the agency has identified as*
7 *requiring a security clearance has already been granted or*
8 *denied a security clearance, or has had a security clearance*
9 *revoked, by any other authorized investigative or adjudica-*
10 *tive agency.*

11 (d) *CERTIFICATION OF AUTHORIZED INVESTIGATIVE*
12 *AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.*—
13 *The Director shall evaluate the extent to which an agency*
14 *is submitting information to, and requesting information*
15 *from, the national database established under subsection (a)*
16 *as part of a determination of whether to certify the agency*
17 *as an authorized investigative agency or authorized adju-*
18 *dicative agency.*

19 (e) *EXCLUSION OF CERTAIN INTELLIGENCE*
20 *OPERATIVES.*—*The Director may authorize an agency to*
21 *withhold information about certain individuals from the*
22 *database established under subsection (a) if the Director de-*
23 *termines it is necessary for national security purposes.*

1 *dication on the application is made within 90 days after*
2 *the initial clearance is granted.*

3 (c) *ON-GOING MONITORING OF INDIVIDUALS WITH SE-*
4 *URITY CLEARANCES.—(1) Authorized investigative agen-*
5 *cies and authorized adjudicative agencies shall establish*
6 *procedures for the regular, ongoing verification of personnel*
7 *with security clearances in effect for continued access to*
8 *classified information. Such procedures shall include the*
9 *use of available technology to detect, on a regularly recur-*
10 *ring basis, any issues of concern that may arise involving*
11 *such personnel and such access.*

12 (2) *Such regularly recurring verification may be used*
13 *as a basis for terminating a security clearance or access*
14 *and shall be used in periodic reinvestigations to address*
15 *emerging threats and adverse events associated with indi-*
16 *viduals with security clearances in effect to the maximum*
17 *extent practicable.*

18 (3) *If the Director certifies that the national security*
19 *of the United States is not harmed by the discontinuation*
20 *of periodic reinvestigations, the regularly recurring*
21 *verification under this section may replace periodic reinves-*
22 *tigations.*

1 **SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECUR-**
2 **RITY CLEARANCE PROCESS.**

3 (a) *60-Day PERIOD FOR DETERMINATION ON CLEAR-*
4 *ANCES.—Each authorized adjudicative agency shall make*
5 *a determination on an application for a personnel security*
6 *clearance within 60 days after the date of receipt of the*
7 *completed application for a security clearance by an au-*
8 *thorized investigative agency. The 60-day period shall*
9 *include—*

10 (1) *a period of not longer than 40 days to com-*
11 *plete the investigative phase of the clearance review;*
12 *and*

13 (2) *a period of not longer than 20 days to com-*
14 *plete the adjudicative phase of the clearance review.*

15 (b) *EFFECTIVE DATE AND PHASE-IN.—*

16 (1) *EFFECTIVE DATE.—Subsection (a) shall take*
17 *effect 5 years after the date of the enactment of this*
18 *Act.*

19 (2) *PHASE-IN.—During the period beginning on*
20 *a date not later than 2 years after the date of the en-*
21 *actment of this Act and ending on the date on which*
22 *subsection (a) takes effect as specified in paragraph*
23 *(1), each authorized adjudicative agency shall make a*
24 *determination on an application for a personnel secu-*
25 *rity clearance pursuant to this title within 120 days*
26 *after the date of receipt of the application for a secu-*

1 *urity clearance by an authorized investigative agency.*

2 *The 120-day period shall include—*

3 *(A) a period of not longer than 90 days to*
4 *complete the investigative phase of the clearance*
5 *review; and*

6 *(B) a period of not longer than 30 days to*
7 *complete the adjudicative phase of the clearance*
8 *review.*

9 **SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL**
10 **TRANSITION.**

11 *(a) CANDIDATES FOR NATIONAL SECURITY POSI-*
12 *TIONS.—(1) The President-elect shall submit to the Director*
13 *the names of candidates for high-level national security po-*
14 *sitions, for positions at the level of under secretary of execu-*
15 *tive departments and above, as soon as possible after the*
16 *date of the general elections held to determine the electors*
17 *of President and Vice President under section 1 or 2 of title*
18 *3, United States Code.*

19 *(2) The Director shall be responsible for the expeditious*
20 *completion of the background investigations necessary to*
21 *provide appropriate security clearances to the individuals*
22 *who are candidates described under paragraph (1) before*
23 *the date of the inauguration of the President-elect as Presi-*
24 *dent and the inauguration of the Vice-President-elect as*
25 *Vice President.*

1 (b) *SECURITY CLEARANCES FOR TRANSITION TEAM*
2 *MEMBERS.*—(1) *In this section, the term “major party” has*
3 *the meaning provided under section 9002(6) of the Internal*
4 *Revenue Code of 1986.*

5 (2) *Each major party candidate for President, except*
6 *a candidate who is the incumbent President, shall submit,*
7 *before the date of the general presidential election, requests*
8 *for security clearances for prospective transition team mem-*
9 *bers who will have a need for access to classified informa-*
10 *tion to carry out their responsibilities as members of the*
11 *President-elect’s transition team.*

12 (3) *Necessary background investigations and eligibility*
13 *determinations to permit appropriate prospective transi-*
14 *tion team members to have access to classified information*
15 *shall be completed, to the fullest extent practicable, by the*
16 *day after the date of the general presidential election.*

17 **SEC. 5078. REPORTS.**

18 *Not later than February 15, 2006, and annually there-*
19 *after through 2016, the Director shall submit to the appro-*
20 *priate committees of Congress a report on the progress made*
21 *during the preceding year toward meeting the requirements*
22 *specified in this Act. The report shall include—*

23 (1) *the periods of time required by the authorized*
24 *investigative agencies and authorized adjudicative*
25 *agencies during the year covered by the report for*

1 *try about counter-terrorist financing activities and*
2 *preparedness;*

3 *(2) has successfully reached out to State and*
4 *local governments and regional public-private part-*
5 *nerships, such as ChicagoFIRST, that protect employ-*
6 *ees and critical infrastructure by enhancing commu-*
7 *nication and coordinating plans for disaster pre-*
8 *paredness and business continuity; and*

9 *(3) has set an example for the Department of*
10 *Homeland Security and other Federal agency part-*
11 *ners, whose active participation is vital to the overall*
12 *success of the activities described in paragraphs (1)*
13 *and (2).*

14 *(b) FURTHER EDUCATION AND PREPARATION EF-*
15 *FORTS.—It is the sense of Congress that the Secretary of*
16 *the Treasury, in consultation with the Secretary of Home-*
17 *land Security and other Federal agency partners, should—*

18 *(1) furnish sufficient personnel and technological*
19 *and financial resources to foster the formation of pub-*
20 *lic-private sector coalitions, similar to*
21 *ChicagoFIRST, that, in collaboration with the De-*
22 *partment of Treasury, the Department of Homeland*
23 *Security, and other Federal agency partners, would*
24 *educate consumers and employees of the financial*

1 *services industry about domestic counter-terrorist fi-*
2 *ancing activities, including—*

3 *(A) how the public and private sector orga-*
4 *nizations involved in counter-terrorist financing*
5 *activities can help to combat terrorism and si-*
6 *multaneously protect and preserve the lives and*
7 *civil liberties of consumers and employees of the*
8 *financial services industry; and*

9 *(B) how consumers and employees of the fi-*
10 *nancial services industry can assist the public*
11 *and private sector organizations involved in*
12 *counter-terrorist financing activities; and*

13 *(2) submit annual reports to the Congress on*
14 *Federal efforts, in conjunction with public-private*
15 *sector coalitions, to educate consumers and employees*
16 *of the financial services industry about domestic*
17 *counter-terrorist financing activities.*

18 **CHAPTER 2—MARKET PREPAREDNESS**

19 **SEC. 5084. SHORT TITLE.**

20 *This chapter may be cited as the “Emergency Securi-*
21 *ties Response Act of 2004”.*

1 **SEC. 5085. EXTENSION OF EMERGENCY ORDER AUTHORITY**
2 **OF THE SECURITIES AND EXCHANGE COMMIS-**
3 **SION.**

4 (a) *EXTENSION OF AUTHORITY.*—Paragraph (2) of
5 section 12(k) of the Securities Exchange Act of 1934 (15
6 U.S.C. 78l(k)(2)) is amended to read as follows:

7 “(2) *EMERGENCY.*—(A) *The Commission, in an*
8 *emergency, may by order summarily take such action*
9 *to alter, supplement, suspend, or impose requirements*
10 *or restrictions with respect to any matter or action*
11 *subject to regulation by the Commission or a self-reg-*
12 *ulatory organization under the securities laws, as the*
13 *Commission determines is necessary in the public in-*
14 *terest and for the protection of investors—*

15 *“(i) to maintain or restore fair and orderly*
16 *securities markets (other than markets in ex-*
17 *empted securities);*

18 *“(ii) to ensure prompt, accurate, and safe*
19 *clearance and settlement of transactions in secu-*
20 *rities (other than exempted securities); or*

21 *“(iii) to reduce, eliminate, or prevent the*
22 *substantial disruption by the emergency of (I)*
23 *securities markets (other than markets in ex-*
24 *empted securities), investment companies, or any*
25 *other significant portion or segment of such mar-*
26 *kets, or (II) the transmission or processing of se-*

1 *curities transactions (other than transactions in*
2 *exempted securities).*

3 *“(B) An order of the Commission under this*
4 *paragraph (2) shall continue in effect for the period*
5 *specified by the Commission, and may be extended.*
6 *Except as provided in subparagraph (C), the Com-*
7 *mission’s action may not continue in effect for more*
8 *than 30 business days, including extensions.*

9 *“(C) An order of the Commission under this*
10 *paragraph (2) may be extended to continue in effect*
11 *for more than 30 business days if, at the time of the*
12 *extension, the Commission finds that the emergency*
13 *still exists and determines that the continuation of the*
14 *order beyond 30 business days is necessary in the*
15 *public interest and for the protection of investors to*
16 *attain an objective described in clause (i), (ii), or*
17 *(iii) of subparagraph (A). In no event shall an order*
18 *of the Commission under this paragraph (2) continue*
19 *in effect for more than 90 calendar days.*

20 *“(D) If the actions described in subparagraph*
21 *(A) involve a security futures product, the Commis-*
22 *sion shall consult with and consider the views of the*
23 *Commodity Futures Trading Commission. In exer-*
24 *cising its authority under this paragraph, the Com-*
25 *mission shall not be required to comply with the pro-*

1 *visions of section 553 of title 5, United States Code,*
2 *or with the provisions of section 19(c) of this title.*

3 *“(E) Notwithstanding the exclusion of exempted*
4 *securities (and markets therein) from the Commis-*
5 *sion’s authority under subparagraph (A), the Com-*
6 *mission may use such authority to take action to*
7 *alter, supplement, suspend, or impose requirements or*
8 *restrictions with respect to clearing agencies for*
9 *transactions in such exempted securities. In taking*
10 *any action under this subparagraph, the Commission*
11 *shall consult with and consider the views of the Sec-*
12 *retary of the Treasury.”.*

13 *(b) CONSULTATION; DEFINITION OF EMERGENCY.—*
14 *Section 12(k) of the Securities Exchange Act of 1934 (15*
15 *U.S.C. 78l(k)) is further amended by striking paragraph*
16 *(6) and inserting the following:*

17 *“(6) CONSULTATION.—Prior to taking any ac-*
18 *tion described in paragraph (1)(B), the Commission*
19 *shall consult with and consider the views of the Sec-*
20 *retary of the Treasury, Board of Governors of the*
21 *Federal Reserve System, and the Commodity Futures*
22 *Trading Commission, unless such consultation is im-*
23 *practicable in light of the emergency.*

24 *“(7) DEFINITIONS.—*

1 “(A) *EMERGENCY.*—For purposes of this
2 subsection, the term ‘emergency’ means—

3 “(i) a major market disturbance char-
4 acterized by or constituting—

5 “(I) sudden and excessive fluctua-
6 tions of securities prices generally, or a
7 substantial threat thereof, that threaten
8 fair and orderly markets; or

9 “(II) a substantial disruption of
10 the safe or efficient operation of the na-
11 tional system for clearance and settle-
12 ment of transactions in securities, or a
13 substantial threat thereof; or

14 “(ii) a major disturbance that substan-
15 tially disrupts, or threatens to substantially
16 disrupt—

17 “(I) the functioning of securities
18 markets, investment companies, or any
19 other significant portion or segment of
20 the securities markets; or

21 “(II) the transmission or proc-
22 essing of securities transactions.

23 “(B) *SECURITIES LAWS.*—Notwithstanding
24 section 3(a)(47), for purposes of this subsection,
25 the term ‘securities laws’ does not include the

1 *Public Utility Holding Company Act of 1935*
2 *(15 U.S.C. 79a et seq.)”.*

3 **SEC. 5086. PARALLEL AUTHORITY OF THE SECRETARY OF**
4 **THE TREASURY WITH RESPECT TO GOVERN-**
5 **MENT SECURITIES.**

6 *Section 15C of the Securities Exchange Act of 1934*
7 *(15 U.S.C. 78o–5) is amended by adding at the end the*
8 *following new subsection:*

9 “(h) *EMERGENCY AUTHORITY.*—*The Secretary may by*
10 *order take any action with respect to a matter or action*
11 *subject to regulation by the Secretary under this section,*
12 *or the rules of the Secretary thereunder, involving a govern-*
13 *ment security or a market therein (or significant portion*
14 *or segment of that market), that the Commission may take*
15 *under section 12(k)(2) of this title with respect to trans-*
16 *actions in securities (other than exempted securities) or a*
17 *market therein (or significant portion or segment of that*
18 *market).”.*

19 **SEC. 5087. JOINT REPORT ON IMPLEMENTATION OF FINAN-**
20 **CIAL SYSTEM RESILIENCE RECOMMENDA-**
21 **TIONS.**

22 *(a) REPORT REQUIRED.*—*Not later than April 30,*
23 *2006, the Board of Governors of the Federal Reserve System,*
24 *the Comptroller of the Currency, and the Securities and Ex-*
25 *change Commission shall prepare and submit to the Com-*

1 *mittee on Financial Services of the House of Representa-*
2 *tives and the Committee on Banking, Housing, and Urban*
3 *Affairs of the Senate a joint report on the efforts of the pri-*
4 *vate sector to implement the Interagency Paper on Sound*
5 *Practices to Strengthen the Resilience of the U.S. Financial*
6 *System.*

7 (b) *CONTENTS OF REPORT.*—*The report required by*
8 *subsection (a) shall—*

9 (1) *examine the efforts to date of covered private*
10 *sector financial services firms to implement enhanced*
11 *business continuity plans;*

12 (2) *examine the extent to which the implementa-*
13 *tion of business continuity plans has been done in a*
14 *geographically dispersed manner, including an anal-*
15 *ysis of the extent to which such firms have located*
16 *their main and backup facilities in separate electrical*
17 *networks, in different watersheds, in independent*
18 *transportation systems, and using separate tele-*
19 *communications centers;*

20 (3) *examine the need to cover more financial*
21 *services entities than those covered by the Interagency*
22 *Paper; and*

23 (4) *recommend legislative and regulatory*
24 *changes that will—*

1 (A) expedite the effective implementation of
2 the Interagency Paper by all covered financial
3 services entities; and

4 (B) maximize the effective implementation
5 of business continuity planning by all partici-
6 pants in the financial services industry.

7 (c) *CONFIDENTIALITY.*—Any information provided to
8 the Federal Reserve Board, the Comptroller of the Currency,
9 or the Securities and Exchange Commission for the pur-
10 poses of the preparation and submission of the report re-
11 quired by subsection (a) shall be treated as privileged and
12 confidential. For purposes of section 552 of title 5, United
13 States Code, this subsection shall be considered a statute
14 described in subsection (b)(3)(B) of such section 552.

15 (d) *DEFINITION.*—The Interagency Paper on Sound
16 Practices to Strengthen the Resilience of the U.S. Financial
17 System is the interagency paper prepared by the Board of
18 Governors of the Federal Reserve System, the Comptroller
19 of the Currency, and the Securities and Exchange Commis-
20 sion that was announced in the Federal Register on April
21 8, 2003.

22 **SEC. 5088. PRIVATE SECTOR PREPAREDNESS.**

23 *It is the sense of the Congress that the insurance indus-*
24 *try and credit-rating agencies, where relevant, should care-*
25 *fully consider a company's compliance with standards for*

1 *private sector disaster and emergency preparedness in as-*
2 *sessing insurability and creditworthiness, to ensure that*
3 *private sector investment in disaster and emergency pre-*
4 *paredness is appropriately encouraged.*

5 **SEC. 5089. REPORT ON PUBLIC/PRIVATE PARTNERSHIPS.**

6 *Before the end of the 6-month period beginning on the*
7 *date of the enactment of this Act, the Secretary of the Treas-*
8 *ury shall submit a report to the Committee on Financial*
9 *Services of the House of Representatives and the Committee*
10 *on Banking, Housing, and Urban Affairs of the Senate*
11 *containing—*

12 *(1) information on the efforts the Department of*
13 *the Treasury has made to encourage the formation of*
14 *public/private partnerships to protect critical finan-*
15 *cial infrastructure and the type of support that the*
16 *Department has provided to these partnerships; and*

17 *(2) recommendations for administrative or legis-*
18 *lative action regarding these partnerships as the Sec-*
19 *retary may determine to be appropriate.*

1 **Subtitle H—Other Matters**

2 **CHAPTER 1—PRIVACY MATTERS**

3 **SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING**
4 **TAKE INTO CONSIDERATION IMPACTS ON IN-**
5 **DIVIDUAL PRIVACY.**

6 (a) *SHORT TITLE.*—*This section may be cited as the*
7 *“Federal Agency Protection of Privacy Act of 2004”.*

8 (b) *IN GENERAL.*—*Title 5, United States Code, is*
9 *amended by adding after section 553 the following new sec-*
10 *tion:*

11 **“§ 553a. Privacy impact assessment in rulemaking**

12 **“(a) INITIAL PRIVACY IMPACT ASSESSMENT.—**

13 **“(1) IN GENERAL.—***Whenever an agency is re-*
14 *quired by section 553 of this title, or any other law,*
15 *to publish a general notice of proposed rulemaking for*
16 *a proposed rule, or publishes a notice of proposed*
17 *rulemaking for an interpretative rule involving the*
18 *internal revenue laws of the United States, and such*
19 *rule or proposed rulemaking pertains to the collection,*
20 *maintenance, use, or disclosure of personally identifi-*
21 *able information from 10 or more individuals, other*
22 *than agencies, instrumentalities, or employees of the*
23 *Federal government, the agency shall prepare and*
24 *make available for public comment an initial privacy*
25 *impact assessment that describes the impact of the*

1 *proposed rule on the privacy of individuals. Such as-*
2 *essment or a summary thereof shall be signed by the*
3 *senior agency official with primary responsibility for*
4 *privacy policy and be published in the Federal Reg-*
5 *ister at the time of the publication of a general notice*
6 *of proposed rulemaking for the rule.*

7 *“(2) CONTENTS.—Each initial privacy impact*
8 *assessment required under this subsection shall con-*
9 *tain the following:*

10 *“(A) A description and analysis of the ex-*
11 *tent to which the proposed rule will impact the*
12 *privacy interests of individuals, including the*
13 *extent to which the proposed rule—*

14 *“(i) provides notice of the collection of*
15 *personally identifiable information, and*
16 *specifies what personally identifiable infor-*
17 *mation is to be collected and how it is to be*
18 *collected, maintained, used, and disclosed;*

19 *“(ii) allows access to such information*
20 *by the person to whom the personally iden-*
21 *tifiable information pertains and provides*
22 *an opportunity to correct inaccuracies;*

23 *“(iii) prevents such information, which*
24 *is collected for one purpose, from being used*
25 *for another purpose; and*

1 “(iv) provides security for such infor-
2 mation.

3 “(B) A description of any significant alter-
4 natives to the proposed rule which accomplish
5 the stated objectives of applicable statutes and
6 which minimize any significant privacy impact
7 of the proposed rule on individuals.

8 “(b) FINAL PRIVACY IMPACT ASSESSMENT.—

9 “(1) IN GENERAL.—Whenever an agency promul-
10 gates a final rule under section 553 of this title, after
11 being required by that section or any other law to
12 publish a general notice of proposed rulemaking, or
13 promulgates a final interpretative rule involving the
14 internal revenue laws of the United States, and such
15 rule or proposed rulemaking pertains to the collection,
16 maintenance, use, or disclosure of personally identifi-
17 able information from 10 or more individuals, other
18 than agencies, instrumentalities, or employees of the
19 Federal government, the agency shall prepare a final
20 privacy impact assessment, signed by the senior agen-
21 cy official with primary responsibility for privacy
22 policy.

23 “(2) CONTENTS.—Each final privacy impact as-
24 sessment required under this subsection shall contain
25 the following:

1 “(A) A description and analysis of the ex-
2 tent to which the final rule will impact the pri-
3 vacy interests of individuals, including the ex-
4 tent to which such rule—

5 “(i) provides notice of the collection of
6 personally identifiable information, and
7 specifies what personally identifiable infor-
8 mation is to be collected and how it is to be
9 collected, maintained, used, and disclosed;

10 “(ii) allows access to such information
11 by the person to whom the personally iden-
12 tifiable information pertains and provides
13 an opportunity to correct inaccuracies;

14 “(iii) prevents such information, which
15 is collected for one purpose, from being used
16 for another purpose; and

17 “(iv) provides security for such infor-
18 mation.

19 “(B) A summary of any significant issues
20 raised by the public comments in response to the
21 initial privacy impact assessment, a summary of
22 the analysis of the agency of such issues, and a
23 statement of any changes made in such rule as
24 a result of such issues.

1 “(C) *A description of the steps the agency*
2 *has taken to minimize the significant privacy*
3 *impact on individuals consistent with the stated*
4 *objectives of applicable statutes, including a*
5 *statement of the factual, policy, and legal reasons*
6 *for selecting the alternative adopted in the final*
7 *rule and why each one of the other significant al-*
8 *ternatives to the rule considered by the agency*
9 *which affect the privacy interests of individuals*
10 *was rejected.*

11 “(3) *AVAILABILITY TO PUBLIC.—The agency*
12 *shall make copies of the final privacy impact assess-*
13 *ment available to members of the public and shall*
14 *publish in the Federal Register such assessment or a*
15 *summary thereof.*

16 “(c) *WAIVERS.—*

17 “(1) *EMERGENCIES.—An agency head may*
18 *wave or delay the completion of some or all of the*
19 *requirements of subsections (a) and (b) to the same*
20 *extent as the agency head may, under section 608,*
21 *wave or delay the completion of some or all of the*
22 *requirements of sections 603 and 604, respectively.*

23 “(2) *NATIONAL SECURITY.—An agency head*
24 *may, for national security reasons, or to protect from*
25 *disclosure classified information, confidential com-*

1 *mercial information, or information the disclosure of*
2 *which may adversely affect a law enforcement effort,*
3 *waive or delay the completion of some or all of the*
4 *following requirements:*

5 *“(A) The requirement of subsection (a)(1) to*
6 *make an assessment available for public com-*
7 *ment.*

8 *“(B) The requirement of subsection (a)(1) to*
9 *have an assessment or summary thereof pub-*
10 *lished in the Federal Register.*

11 *“(C) The requirements of subsection (b)(3).*

12 *“(d) PROCEDURES FOR GATHERING COMMENTS.—*

13 *When any rule is promulgated which may have a signifi-*
14 *cant privacy impact on individuals, or a privacy impact*
15 *on a substantial number of individuals, the head of the*
16 *agency promulgating the rule or the official of the agency*
17 *with statutory responsibility for the promulgation of the*
18 *rule shall assure that individuals have been given an oppor-*
19 *tunity to participate in the rulemaking for the rule through*
20 *techniques such as—*

21 *“(1) the inclusion in an advance notice of pro-*
22 *posed rulemaking, if issued, of a statement that the*
23 *proposed rule may have a significant privacy impact*
24 *on individuals, or a privacy impact on a substantial*
25 *number of individuals;*

1 “(2) the publication of a general notice of pro-
2 posed rulemaking in publications of national circula-
3 tion likely to be obtained by individuals;

4 “(3) the direct notification of interested individ-
5 uals;

6 “(4) the conduct of open conferences or public
7 hearings concerning the rule for individuals, includ-
8 ing soliciting and receiving comments over computer
9 networks; and

10 “(5) the adoption or modification of agency pro-
11 cedural rules to reduce the cost or complexity of par-
12 ticipation in the rulemaking by individuals.

13 “(e) *PERIODIC REVIEW OF RULES.*—

14 “(1) *IN GENERAL.*—Each agency shall carry out
15 a periodic review of the rules promulgated by the
16 agency that have a significant privacy impact on in-
17 dividuals, or a privacy impact on a substantial num-
18 ber of individuals. Under such periodic review, the
19 agency shall determine, for each such rule, whether
20 the rule can be amended or rescinded in a manner
21 that minimizes any such impact while remaining in
22 accordance with applicable statutes. For each such de-
23 termination, the agency shall consider the following
24 factors:

25 “(A) The continued need for the rule.

1 “(B) *The nature of complaints or comments*
2 *received from the public concerning the rule.*

3 “(C) *The complexity of the rule.*

4 “(D) *The extent to which the rule overlaps,*
5 *duplicates, or conflicts with other Federal rules,*
6 *and, to the extent feasible, with State and local*
7 *governmental rules.*

8 “(E) *The length of time since the rule was*
9 *last reviewed under this subsection.*

10 “(F) *The degree to which technology, eco-*
11 *nomie conditions, or other factors have changed*
12 *in the area affected by the rule since the rule was*
13 *last reviewed under this subsection.*

14 “(2) *PLAN REQUIRED.—Each agency shall carry*
15 *out the periodic review required by paragraph (1) in*
16 *accordance with a plan published by such agency in*
17 *the Federal Register. Each such plan shall provide for*
18 *the review under this subsection of each rule promul-*
19 *gated by the agency not later than 10 years after the*
20 *date on which such rule was published as the final*
21 *rule and, thereafter, not later than 10 years after the*
22 *date on which such rule was last reviewed under this*
23 *subsection. The agency may amend such plan at any*
24 *time by publishing the revision in the Federal Reg-*
25 *ister.*

1 “(3) *ANNUAL PUBLICATION.*—Each year, each
2 agency shall publish in the *Federal Register* a list of
3 the rules to be reviewed by such agency under this
4 subsection during the following year. The list shall in-
5 clude a brief description of each such rule and the
6 need for and legal basis of such rule and shall invite
7 public comment upon the determination to be made
8 under this subsection with respect to such rule.

9 “(f) *JUDICIAL REVIEW.*—

10 “(1) *IN GENERAL.*—For any rule subject to this
11 section, an individual who is adversely affected or ag-
12 grieved by final agency action is entitled to judicial
13 review of agency compliance with the requirements of
14 subsections (b) and (c) in accordance with chapter 7.
15 Agency compliance with subsection (d) shall be judi-
16 cially reviewable in connection with judicial review of
17 subsection (b).

18 “(2) *JURISDICTION.*—Each court having juris-
19 diction to review such rule for compliance with sec-
20 tion 553, or under any other provision of law, shall
21 have jurisdiction to review any claims of noncompli-
22 ance with subsections (b) and (c) in accordance with
23 chapter 7. Agency compliance with subsection (d)
24 shall be judicially reviewable in connection with judi-
25 cial review of subsection (b).

1 “(3) *LIMITATIONS.*—

2 “(A) *An individual may seek such review*
3 *during the period beginning on the date of final*
4 *agency action and ending 1 year later, except*
5 *that where a provision of law requires that an*
6 *action challenging a final agency action be com-*
7 *menced before the expiration of 1 year, such less-*
8 *er period shall apply to an action for judicial re-*
9 *view under this subsection.*

10 “(B) *In the case where an agency delays the*
11 *issuance of a final privacy impact assessment*
12 *pursuant to subsection (c), an action for judicial*
13 *review under this section shall be filed not later*
14 *than—*

15 “(i) *1 year after the date the assess-*
16 *ment is made available to the public; or*

17 “(ii) *where a provision of law requires*
18 *that an action challenging a final agency*
19 *regulation be commenced before the expira-*
20 *tion of the 1-year period, the number of*
21 *days specified in such provision of law that*
22 *is after the date the assessment is made*
23 *available to the public.*

24 “(4) *RELIEF.*—*In granting any relief in an ac-*
25 *tion under this subsection, the court shall order the*

1 agency to take corrective action consistent with this
2 section and chapter 7, including, but not limited to—

3 “(A) remanding the rule to the agency; and

4 “(B) deferring the enforcement of the rule
5 against individuals, unless the court finds that
6 continued enforcement of the rule is in the public
7 interest.

8 “(5) *RULE OF CONSTRUCTION.*—Nothing in this
9 subsection shall be construed to limit the authority of
10 any court to stay the effective date of any rule or pro-
11 vision thereof under any other provision of law or to
12 grant any other relief in addition to the requirements
13 of this subsection.

14 “(6) *RECORD OF AGENCY ACTION.*—In an action
15 for the judicial review of a rule, the privacy impact
16 assessment for such rule, including an assessment pre-
17 pared or corrected pursuant to paragraph (4), shall
18 constitute part of the entire record of agency action
19 in connection with such review.

20 “(7) *EXCLUSIVITY.*—Compliance or noncompli-
21 ance by an agency with the provisions of this section
22 shall be subject to judicial review only in accordance
23 with this subsection.

24 “(8) *SAVINGS CLAUSE.*—Nothing in this sub-
25 section bars judicial review of any other impact state-

1 *ment or similar assessment required by any other law*
2 *if judicial review of such statement or assessment is*
3 *otherwise permitted by law.*

4 “(g) *DEFINITION.—For purposes of this section, the*
5 *term ‘personally identifiable information’ means informa-*
6 *tion that can be used to identify an individual, including*
7 *such individual’s name, address, telephone number, photo-*
8 *graph, social security number or other identifying informa-*
9 *tion. It includes information about such individual’s med-*
10 *ical or financial condition.”.*

11 (c) *PERIODIC REVIEW TRANSITION PROVISIONS.—*

12 (1) *INITIAL PLAN.—For each agency, the plan*
13 *required by subsection (e) of section 553a of title 5,*
14 *United States Code (as added by subsection (a)), shall*
15 *be published not later than 180 days after the date of*
16 *the enactment of this Act.*

17 (2) *In the case of a rule promulgated by an*
18 *agency before the date of the enactment of this Act,*
19 *such plan shall provide for the periodic review of such*
20 *rule before the expiration of the 10-year period begin-*
21 *ning on the date of the enactment of this Act. For any*
22 *such rule, the head of the agency may provide for a*
23 *1-year extension of such period if the head of the*
24 *agency, before the expiration of the period, certifies in*
25 *a statement published in the Federal Register that re-*

1 *viewing such rule before the expiration of the period*
 2 *is not feasible. The head of the agency may provide*
 3 *for additional 1-year extensions of the period pursu-*
 4 *ant to the preceding sentence, but in no event may the*
 5 *period exceed 15 years.*

6 *(d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B)*
 7 *of title 5, United States Code, is amended—*

8 *(1) by redesignating clauses (iii) and (iv) as*
 9 *clauses (iv) and (v), respectively; and*

10 *(2) by inserting after clause (ii) the following*
 11 *new clause:*

12 *“(iii) the agency’s actions relevant to section*
 13 *553a;”.*

14 *(e) CLERICAL AMENDMENT.—The table of sections at*
 15 *the beginning of chapter 5 of title 5, United States Code,*
 16 *is amended by adding after the item relating to section 553*
 17 *the following new item:*

553a. Privacy impact assessment in rulemaking.”.

18 **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH**
 19 **LAW ENFORCEMENT OR ANTI-TERRORISM**
 20 **FUNCTIONS.**

21 *(a) IN GENERAL.—There shall be within each Federal*
 22 *agency with law enforcement or anti-terrorism functions a*
 23 *chief privacy officer, who shall have primary responsibility*
 24 *within that agency for privacy policy. The agency chief pri-*
 25 *vacy officer shall be designated by the head of the agency.*

1 (b) *RESPONSIBILITIES.*—*The responsibilities of each*
2 *agency chief privacy officer shall include—*

3 (1) *ensuring that the use of technologies sustains,*
4 *and does not erode, privacy protections relating to the*
5 *use, collection, and disclosure of personally identifi-*
6 *able information;*

7 (2) *ensuring that personally identifiable infor-*
8 *mation contained in systems of records is handled in*
9 *full compliance with fair information practices as set*
10 *out in section 552a of title 5, United States Code;*

11 (3) *evaluating legislative and regulatory pro-*
12 *posals involving collection, use, and disclosure of per-*
13 *sonally identifiable information by the Federal Gov-*
14 *ernment;*

15 (4) *conducting a privacy impact assessment of*
16 *proposed rules of the agency on the privacy of person-*
17 *ally identifiable information, including the type of*
18 *personally identifiable information collected and the*
19 *number of people affected;*

20 (5) *preparing and submitting a report to Con-*
21 *gress on an annual basis on activities of the agency*
22 *that affect privacy, including complaints of privacy*
23 *violations, implementation of section 552a of title 5,*
24 *United States Code, internal controls, and other rel-*
25 *evant matters;*

1 (6) *ensuring that the agency protects personally*
2 *identifiable information and information systems*
3 *from unauthorized access, use, disclosure, disruption,*
4 *modification, or destruction in order to provide—*

5 (A) *integrity, which means guarding*
6 *against improper information modification or*
7 *destruction, and includes ensuring information*
8 *nonrepudiation and authenticity;*

9 (B) *confidentially, which means preserving*
10 *authorized restrictions on access and disclosure,*
11 *including means for protecting personal privacy*
12 *and proprietary information;*

13 (C) *availability, which means ensuring*
14 *timely and reliable access to and use of that in-*
15 *formation; and*

16 (D) *authentication, which means utilizing*
17 *digital credentials to assure the identity of users*
18 *and validate their access; and*

19 (7) *advising the head of the agency and the Di-*
20 *rector of the Office of Management and Budget on in-*
21 *formation security and privacy issues pertaining to*
22 *Federal Government information systems.*

1 **CHAPTER 2—MUTUAL AID AND**
2 **LITIGATION MANAGEMENT**

3 **SEC. 5101. SHORT TITLE.**

4 *This chapter may be cited as the “Mutual Aid and*
5 *Litigation Management Authorization Act of 2004”.*

6 **SEC. 5102. MUTUAL AID AUTHORIZED.**

7 (a) *AUTHORIZATION TO ENTER INTO AGREEMENTS.—*

8 (1) *IN GENERAL.—The authorized representative*
9 *of a State, locality, or the Federal Government may*
10 *enter into an interstate mutual aid agreement or a*
11 *mutual aid agreement with the Federal Government*
12 *on behalf of the State, locality, or Federal Govern-*
13 *ment under which, at the request of any party to the*
14 *agreement, the other party to the agreement may—*

15 (A) *provide law enforcement, fire, rescue,*
16 *emergency health and medical services, transpor-*
17 *tation, communications, public works and engi-*
18 *neering, mass care, and resource support in an*
19 *emergency or public service event occurring in*
20 *the jurisdiction of the requesting party;*

21 (B) *provide other services to prepare for,*
22 *mitigate, manage, respond to, or recover from an*
23 *emergency or public service event occurring in*
24 *the jurisdiction of the requesting party; and*

1 (C) participate in training events occurring
2 in the jurisdiction of the requesting party.

3 (b) *LIABILITY AND ACTIONS AT LAW.*—

4 (1) *LIABILITY.*—A responding party or its offi-
5 cers or employees shall be liable on account of any act
6 or omission occurring while providing assistance or
7 participating in a training event in the jurisdiction
8 of a requesting party under a mutual aid agreement
9 (including any act or omission arising from the
10 maintenance or use of any equipment, facilities, or
11 supplies in connection therewith), but only to the ex-
12 tent permitted under and in accordance with the laws
13 and procedures of the State of the responding party
14 and subject to any litigation management agreement
15 entered into pursuant to section 5103.

16 (2) *JURISDICTION OF COURTS.*—

17 (A) *IN GENERAL.*—Subject to subparagraph
18 (B) and any litigation management agreement
19 entered into pursuant to section 5103, any ac-
20 tion brought against a responding party or its
21 officers or employees on account of an act or
22 omission described in subsection (b)(1) may be
23 brought only under the laws and procedures of
24 the State of the responding party and only in

1 *the State courts or United States District Courts*
2 *located therein.*

3 (B) *UNITED STATES AS PARTY.*—*If the*
4 *United States is the party against whom an ac-*
5 *tion described in paragraph (1) is brought, the*
6 *action may be brought only in a United States*
7 *District Court.*

8 (c) *WORKERS' COMPENSATION AND DEATH BENE-*
9 *FITS.*—

10 (1) *PAYMENT OF BENEFITS.*—*A responding*
11 *party shall provide for the payment of workers' com-*
12 *ensation and death benefits with respect to officers*
13 *or employees of the party who sustain injuries or are*
14 *killed while providing assistance or participating in*
15 *a training event under a mutual aid agreement in the*
16 *same manner and on the same terms as if the injury*
17 *or death were sustained within the jurisdiction of the*
18 *responding party.*

19 (2) *LIABILITY FOR BENEFITS.*—*No party shall be*
20 *liable under the law of any State other than its own*
21 *(or, in the case of the Federal Government, under any*
22 *law other than Federal law) for the payment of work-*
23 *ers' compensation and death benefits with respect to*
24 *injured officers or employees of the party who sustain*
25 *injuries or are killed while providing assistance or*

1 *participating in a training event under a mutual aid*
2 *agreement.*

3 (d) *LICENSES AND PERMITS.*—Whenever any person
4 holds a license, certificate, or other permit issued by any
5 responding party evidencing the meeting of qualifications
6 for professional, mechanical, or other skills, such person will
7 be deemed licensed, certified, or permitted by the requesting
8 party to provide assistance involving such skill under a mu-
9 tual aid agreement.

10 (e) *SCOPE.*—Except to the extent provided in this sec-
11 tion, the rights and responsibilities of the parties to a mu-
12 tual aid agreement shall be as described in the mutual aid
13 agreement.

14 (f) *EFFECT ON OTHER AGREEMENTS.*—Nothing in
15 this section precludes any party from entering into supple-
16 mentary mutual aid agreements with fewer than all the
17 parties, or with another, or affects any other agreements
18 already in force among any parties to such an agreement,
19 including the Emergency Management Assistance Compact
20 (EMAC) under Public Law 104–321.

21 (g) *FEDERAL GOVERNMENT.*—Nothing in this section
22 may be construed to limit any other expressed or implied
23 authority of any entity of the Federal Government to enter
24 into mutual aid agreements.

1 (h) *CONSISTENCY WITH STATE LAW.*—A party may
2 enter into a mutual aid agreement under this chapter only
3 insofar as the agreement is in accord with State law.

4 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

5 (a) *AUTHORIZATION TO ENTER INTO LITIGATION*
6 *MANAGEMENT AGREEMENTS.*—The authorized representa-
7 tive of a State or locality may enter into a litigation man-
8 agement agreement on behalf of the State or locality. Such
9 litigation management agreements may provide that all
10 claims against such Emergency Response Providers arising
11 out of, relating to, or resulting from an act of terrorism
12 when Emergency Response Providers from more than 1
13 State have acted in defense against, in response to, or recov-
14 ery from such act shall be governed by the following provi-
15 sions.

16 (b) *FEDERAL CAUSE OF ACTION.*—

17 (1) *IN GENERAL.*—There shall exist a Federal
18 cause of action for claims against Emergency Re-
19 sponse Providers arising out of, relating to, or result-
20 ing from an act of terrorism when Emergency Re-
21 sponse Providers from more than 1 State have acted
22 in defense against, in response to, or recovery from
23 such act. As determined by the parties to a litigation
24 management agreement, the substantive law for deci-
25 sion in any such action shall be—

1 (A) *derived from the law, including choice*
2 *of law principles, of the State in which such acts*
3 *of terrorism occurred, unless such law is incon-*
4 *sistent with or preempted by Federal law; or*

5 (B) *derived from the choice of law prin-*
6 *ciples agreed to by the parties to a litigation*
7 *management agreement as described in the liti-*
8 *gation management agreement, unless such prin-*
9 *ciples are inconsistent with or preempted by*
10 *Federal law.*

11 (2) *JURISDICTION.*—*Such appropriate district*
12 *court of the United States shall have original and ex-*
13 *clusive jurisdiction over all actions for any claim*
14 *against Emergency Response Providers for loss of*
15 *property, personal injury, or death arising out of, re-*
16 *lating to, or resulting from an act of terrorism when*
17 *Emergency Response Providers from more than 1*
18 *State have acted in defense against, in response to, or*
19 *recovery from an act of terrorism.*

20 (3) *SPECIAL RULES.*—*In an action brought for*
21 *damages that is governed by a litigation management*
22 *agreement, the following provisions apply:*

23 (A) *PUNITIVE DAMAGES.*—*No punitive*
24 *damages intended to punish or deter, exemplary*
25 *damages, or other damages not intended to com-*

1 *pensate a plaintiff for actual losses may be*
 2 *awarded, nor shall any party be liable for inter-*
 3 *est prior to the judgment.*

4 *(B) COLLATERAL SOURCES.—Any recovery*
 5 *by a plaintiff in an action governed by a litiga-*
 6 *tion management agreement shall be reduced by*
 7 *the amount of collateral source compensation, if*
 8 *any, that the plaintiff has received or is entitled*
 9 *to receive as a result of such acts of terrorism.*

10 *(4) EXCLUSIONS.—Nothing in this section shall*
 11 *in any way limit the ability of any person to seek*
 12 *any form of recovery from any person, government, or*
 13 *other entity that—*

14 *(A) attempts to commit, knowingly partici-*
 15 *pates in, aids and abets, or commits any act of*
 16 *terrorism, or any criminal act related to or re-*
 17 *sulting from such act of terrorism; or*

18 *(B) participates in a conspiracy to commit*
 19 *any such act of terrorism or any such criminal*
 20 *act.*

21 **SEC. 5104. ADDITIONAL PROVISIONS.**

22 *(a) NO ABROGATION OF OTHER IMMUNITIES.—Noth-*
 23 *ing in this chapter shall abrogate any constitutional, statu-*
 24 *tory, or common law immunities that any party may have.*

1 (b) *EXCEPTION FOR CERTAIN FEDERAL LAW EN-*
2 *FORCEMENT ACTIVITIES.*—*A mutual aid agreement or a*
3 *litigation management agreement may not apply to law en-*
4 *forcement security operations at special events of national*
5 *significance under section 3056(e) of title 18, United States*
6 *Code, or to other law enforcement functions of the United*
7 *States Secret Service.*

8 (c) *SECRET SERVICE.*—*Section 3056 of title 18,*
9 *United States Code, is amended by adding at the end the*
10 *following new subsection:*

11 “(g) *The Secret Service shall be maintained as a dis-*
12 *tinct entity within the Department of Homeland Security*
13 *and shall not be merged with any other department func-*
14 *tion. All personnel and operational elements of the United*
15 *States Secret Service shall report to the Director of the Se-*
16 *cret Service, who shall report directly to the Secretary of*
17 *Homeland Security without being required to report*
18 *through any other official of the Department.*”.

19 **SEC. 5105. DEFINITIONS.**

20 *For purposes of this chapter, the following definitions*
21 *apply:*

22 (1) *AUTHORIZED REPRESENTATIVE.*—*The term*
23 *“authorized representative” means—*

24 (A) *in the case of the Federal Government,*
25 *any individual designated by the President with*

1 *respect to the executive branch, the Chief Justice*
2 *of the United States with respect to the judicial*
3 *branch, or the President pro Tempore of the Sen-*
4 *ate and Speaker of the House of Representatives*
5 *with respect to the Congress, or their designees,*
6 *to enter into a mutual aid agreement;*

7 *(B) in the case of a locality, the official des-*
8 *ignated by law to declare an emergency in and*
9 *for the locality, or the official’s designee;*

10 *(C) in the case of a State, the Governor or*
11 *the Governor’s designee.*

12 (2) *EMERGENCY.*—*The term “emergency” means*
13 *a major disaster or emergency declared by the Presi-*
14 *dent, or a State of Emergency declared by an author-*
15 *ized representative of a State or locality, in response*
16 *to which assistance may be provided under a mutual*
17 *aid agreement.*

18 (3) *EMERGENCY RESPONSE PROVIDER.*—*The*
19 *term “Emergency Response Provider” means any*
20 *party to a litigation management agreement that*
21 *meets the definition of “emergency response pro-*
22 *viders” under section 2 of the Homeland Security Act*
23 *of 2002 (6 U.S.C. 101), as amended by this Act, ex-*
24 *cept that the term does not include any Federal per-*
25 *sonnel, agency, or authority.*

1 (4) *EMPLOYEE*.—The term “employee” means,
2 with respect to a party to a mutual aid agreement,
3 the employees of the party, including its agents or au-
4 thorized volunteers, who are committed to provide as-
5 sistance under the agreement.

6 (5) *LITIGATION MANAGEMENT AGREEMENT*.—The
7 term “litigation management agreement” means an
8 agreement entered into pursuant to the authority
9 granted under section 5103.

10 (6) *LOCALITY*.—The term “locality” means a
11 county, city, or town.

12 (7) *MUTUAL AID AGREEMENT*.—The term “mu-
13 tual aid agreement” means an agreement entered into
14 pursuant to the authority granted under section 5102.

15 (8) *PUBLIC SERVICE EVENT*.—The term “public
16 service event” means any undeclared emergency, inci-
17 dent, or situation in preparation for or response to
18 which assistance may be provided under a mutual
19 aid agreement.

20 (9) *REQUESTING PARTY*.—The term “requesting
21 party” means, with respect to a mutual aid agree-
22 ment, the party in whose jurisdiction assistance is
23 provided, or a training event is held, under the agree-
24 ment.

1 (10) *RESPONDING PARTY.*—The term “respond-
2 ing party” means, with respect to a mutual aid
3 agreement, the party providing assistance, or partici-
4 pating in a training event, under the agreement, but
5 does not include the requesting party.

6 (11) *STATE.*—The term “State” includes each of
7 the several States of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the Vir-
9 gin Islands, Guam, American Samoa, and the Com-
10 monwealth of the Northern Mariana Islands, and any
11 other territory or possession of the United States, and
12 any political subdivision of any such place.

13 (12) *TERRORISM.*—The term “terrorism” means
14 any activity that meets the definition of “terrorism”
15 under section 2 of the Homeland Security Act of 2002
16 (6 U.S.C. 101), as amended by this Act.

17 (13) *TRAINING EVENT.*—The term “training
18 event” means an emergency and public service event-
19 related exercise, test, or other activity using equip-
20 ment and personnel to prepare for or simulate per-
21 formance of any aspect of the giving or receiving of
22 assistance during emergencies or public service events,
23 but does not include an actual emergency or public
24 service event.

1 **SEC. 5106. EMERGENCY PREPAREDNESS COMPACTS.**

2 *Section 611(h) of the Robert T. Stafford Disaster Relief*
3 *and Emergency Assistance Act (42 U.S.C. 5196(h)) is*
4 *amended—*

5 *(1) by redesignating paragraphs (1), (2), and (3)*
6 *as paragraphs (2), (3), and (4), respectively;*

7 *(2) by indenting paragraph (2) (as so redesign-*
8 *ated); and*

9 *(3) by striking the subsection designation and*
10 *heading and inserting the following:*

11 *“(h) EMERGENCY PREPAREDNESS COMPACTS.—(1)*
12 *The Director shall establish a program supporting the devel-*
13 *opment of emergency preparedness compacts for acts of ter-*
14 *rorism, disasters, and emergencies throughout the Nation,*
15 *by—*

16 *“(A) identifying and cataloging existing emer-*
17 *gency preparedness compacts for acts of terrorism,*
18 *disasters, and emergencies at the State and local lev-*
19 *els of government;*

20 *“(B) disseminating to State and local govern-*
21 *ments examples of best practices in the development*
22 *of emergency preparedness compacts and models of ex-*
23 *isting emergency preparedness compacts, including*
24 *agreements involving interstate jurisdictions; and*

25 *“(C) completing an inventory of Federal re-*
26 *sponse capabilities for acts of terrorism, disasters,*

1 (D) accelerate, in consultation with other
2 Federal agencies, including the National Insti-
3 tute of Standards and Technology, the private
4 sector, and nationally recognized standards orga-
5 nizations as appropriate, the development of na-
6 tional voluntary consensus standards for public
7 safety interoperable communications;

8 (E) encourage the development and imple-
9 mentation of flexible and open architectures in-
10 corporating, where possible, technologies that
11 currently are commercially available, with ap-
12 propriate levels of security, for short-term and
13 long-term solutions to public safety communica-
14 tions interoperability;

15 (F) assist other Federal agencies in identi-
16 fying priorities for research, development, and
17 testing and evaluation with regard to public
18 safety interoperable communications;

19 (G) identify priorities within the Depart-
20 ment of Homeland Security for research, devel-
21 opment, and testing and evaluation with regard
22 to public safety interoperable communications;

23 (H) establish coordinated guidance for Fed-
24 eral grant programs for public safety interoper-
25 able communications;

1 (I) provide technical assistance to State and
2 local public safety agencies regarding planning,
3 acquisition strategies, interoperability architec-
4 tures, training, and other functions necessary to
5 achieve public safety communications interoper-
6 ability;

7 (J) develop and disseminate best practices
8 to improve public safety communications inter-
9 operability; and

10 (K) develop appropriate performance meas-
11 ures and milestones to systematically measure
12 the Nation's progress towards achieving public
13 safety communications interoperability, includ-
14 ing the development of national voluntary con-
15 sensus standards.

16 (2) OFFICE FOR INTEROPERABILITY AND COM-
17 PATIBILITY.—

18 (A) ESTABLISHMENT OF OFFICE.—The Sec-
19 retary may establish an Office for Interoper-
20 ability and Compatibility to carry out this sub-
21 section.

22 (B) FUNCTIONS.—If the Secretary estab-
23 lishes such office, the Secretary shall, through
24 such office—

1 (i) carry out Department of Homeland
2 Security responsibilities and authorities re-
3 lating to the SAFECOM Program; and

4 (ii) carry out subsection (c) (relating
5 to rapid interoperable communications ca-
6 pabilities for high risk jurisdictions).

7 (3) *APPLICABILITY OF FEDERAL ADVISORY COM-*
8 *MITTEE ACT.*—*The Federal Advisory Committee Act*
9 *(5 U.S.C. App.) shall not apply to advisory groups*
10 *established and maintained by the Secretary for pur-*
11 *poses of carrying out this subsection.*

12 (b) *REPORT.*—*Not later than 120 days after the date*
13 *of the enactment of this Act, the Secretary shall report to*
14 *the Congress on Department of Homeland Security plans*
15 *for accelerating the development of national voluntary con-*
16 *sensus standards for public safety interoperable commu-*
17 *nications, a schedule of milestones for such development,*
18 *and achievements of such development.*

19 (c) *RAPID INTEROPERABLE COMMUNICATIONS CAPA-*
20 *BILITIES FOR HIGH RISK JURISDICTIONS.*—*The Secretary,*
21 *in consultation with other relevant Federal, State, and local*
22 *government agencies, shall provide technical, training, and*
23 *other assistance as appropriate to support the rapid estab-*
24 *lishment of consistent, secure, and effective interoperable*
25 *communications capabilities for emergency response pro-*

1 *viders in jurisdictions determined by the Secretary to be*
2 *at consistently high levels of risk of terrorist attack.*

3 *(d) MULTI-YEAR INTEROPERABILITY GRANTS.—*

4 *(1) MULTI-YEAR COMMITMENTS.—In awarding*
5 *grants to any State, region, local government, or In-*
6 *dian tribe for the purposes of enhancing interoperable*
7 *communications capabilities for emergency response*
8 *providers, the Secretary may commit to obligate Fed-*
9 *eral assistance beyond the current fiscal year, subject*
10 *to the limitations and restrictions in this subsection.*

11 *(2) RESTRICTIONS.—*

12 *(A) TIME LIMIT.—No multi-year interoper-*
13 *ability commitment may exceed 3 years in dura-*
14 *tion.*

15 *(B) AMOUNT OF COMMITTED FUNDS.—The*
16 *total amount of assistance the Secretary has*
17 *committed to obligate for any future fiscal year*
18 *under paragraph (1) may not exceed*
19 *\$150,000,000.*

20 *(3) LETTERS OF INTENT.—*

21 *(A) ISSUANCE.—Pursuant to paragraph*
22 *(1), the Secretary may issue a letter of intent to*
23 *an applicant committing to obligate from future*
24 *budget authority an amount, not more than the*
25 *Federal Government's share of the project's cost,*

1 *for an interoperability communications project*
2 *(including interest costs and costs of formulating*
3 *the project).*

4 (B) *SCHEDULE.*—*A letter of intent under*
5 *this paragraph shall establish a schedule under*
6 *which the Secretary will reimburse the applicant*
7 *for the Federal Government’s share of the*
8 *project’s costs, as amounts become available, if*
9 *the applicant, after the Secretary issues the let-*
10 *ter, carries out the project before receiving*
11 *amounts under a grant issued by the Secretary.*

12 (C) *NOTICE TO SECRETARY.*—*An applicant*
13 *that is issued a letter of intent under this sub-*
14 *section shall notify the Secretary of the appli-*
15 *cant’s intent to carry out a project pursuant to*
16 *the letter before the project begins.*

17 (D) *NOTICE TO CONGRESS.*—*The Secretary*
18 *shall transmit a written notification to the Con-*
19 *gress no later than 3 days before the issuance of*
20 *a letter of intent under this section.*

21 (E) *LIMITATIONS.*—*A letter of intent issued*
22 *under this section is not an obligation of the*
23 *Government under section 1501 of title 31,*
24 *United States Code, and is not deemed to be an*
25 *administrative commitment for financing. An*

1 *obligation or administrative commitment may be*
2 *made only as amounts are provided in author-*
3 *ization and appropriations laws.*

4 (F) *STATUTORY CONSTRUCTION.—Nothing*
5 *in this subsection shall be construed—*

6 (i) *to prohibit the obligation of*
7 *amounts pursuant to a letter of intent*
8 *under this subsection in the same fiscal year*
9 *as the letter of intent is issued; or*

10 (ii) *to apply to, or replace, Federal as-*
11 *stance intended for interoperable commu-*
12 *nications that is not provided pursuant to*
13 *a commitment under this subsection.*

14 (e) *INTEROPERABLE COMMUNICATIONS PLANS.—Any*
15 *applicant requesting funding assistance from the Secretary*
16 *for interoperable communications for emergency response*
17 *providers shall submit an Interoperable Communications*
18 *Plan to the Secretary for approval. Such a plan shall—*

19 (1) *describe the current state of communications*
20 *interoperability in the applicable jurisdictions among*
21 *Federal, State, and local emergency response pro-*
22 *viders and other relevant private resources;*

23 (2) *describe the available and planned use of*
24 *public safety frequency spectrum and resources for*

1 *interoperable communications within such jurisdic-*
2 *tions;*

3 (3) *describe how the planned use of spectrum*
4 *and resources for interoperable communications is*
5 *compatible with surrounding capabilities and inter-*
6 *operable communications plans of Federal, State, and*
7 *local governmental entities, military installations,*
8 *foreign governments, critical infrastructure, and other*
9 *relevant entities;*

10 (4) *include a 5-year plan for the dedication of*
11 *Federal, State, and local government and private re-*
12 *sources to achieve a consistent, secure, and effective*
13 *interoperable communications system, including plan-*
14 *ning, system design and engineering, testing and*
15 *technology development, procurement and installa-*
16 *tion, training, and operations and maintenance; and*

17 (5) *describe how such 5-year plan meets or ex-*
18 *ceeds any applicable standards and grant require-*
19 *ments established by the Secretary.*

20 (f) *DEFINITIONS.—In this section:*

21 (1) *INTEROPERABLE COMMUNICATIONS.—The*
22 *term “interoperable communications” means the abil-*
23 *ity of emergency response providers and relevant Fed-*
24 *eral, State, and local government agencies to commu-*
25 *nicate with each other as necessary, through a dedi-*

1 *cated public safety network utilizing information*
2 *technology systems and radio communications sys-*
3 *tems, and to exchange voice, data, or video with one*
4 *another on demand, in real time, as necessary.*

5 (2) *EMERGENCY RESPONSE PROVIDERS.—The*
6 *term “emergency response providers” has the meaning*
7 *that term has under section 2 of the Homeland Secu-*
8 *rity Act of 2002 (6 U.S.C. 101), as amended by this*
9 *Act.*

10 (g) *CLARIFICATION OF RESPONSIBILITY FOR INTER-*
11 *OPERABLE COMMUNICATIONS.—*

12 (1) *UNDER SECRETARY FOR EMERGENCY PRE-*
13 *PAREDNESS AND RESPONSE.—Section 502(7) of the*
14 *Homeland Security Act of 2002 (6 U.S.C. 312(7)) is*
15 *amended—*

16 (A) *by striking “developing comprehensive*
17 *programs for developing interoperative commu-*
18 *nications technology, and”;* and

19 (B) *by striking “such” and inserting “inter-*
20 *operable communications”.*

21 (2) *OFFICE FOR DOMESTIC PREPAREDNESS.—*
22 *Section 430(c) of such Act (6 U.S.C. 238(c)) is*
23 *amended—*

24 (A) *in paragraph (7) by striking “and”*
25 *after the semicolon;*

1 (B) in paragraph (8) by striking the period
2 and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(9) helping to ensure the acquisition of inter-
5 operable communication technology by State and
6 local governments and emergency response pro-
7 viders.”.

8 **SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT**
9 **COMMAND SYSTEM.**

10 (a) *FINDINGS.*—*The Congress finds that—*

11 (1) *in Homeland Security Presidential Direc-*
12 *tive–5, the President directed the Secretary of Home-*
13 *land Security to develop an incident command system*
14 *to be known as the National Incident Management*
15 *System (NIMS), and directed all Federal agencies to*
16 *make the adoption of NIMS a condition for the re-*
17 *ceipt of Federal emergency preparedness assistance by*
18 *States, territories, tribes, and local governments be-*
19 *ginning in fiscal year 2005;*

20 (2) *in March 2004, the Secretary of Homeland*
21 *Security established NIMS, which provides a unified*
22 *structural framework for Federal, State, territorial,*
23 *tribal, and local governments to ensure coordination*
24 *of command, operations, planning, logistics, finance,*

1 *and administration during emergencies involving*
2 *multiple jurisdictions or agencies; and*

3 *(3) the National Commission on Terrorist At-*
4 *tacks Upon the United States strongly supports the*
5 *adoption of NIMS by emergency response agencies na-*
6 *tionwide, and the decision by the President to condi-*
7 *tion Federal emergency preparedness assistance upon*
8 *the adoption of NIMS.*

9 *(b) SENSE OF CONGRESS.—It is the sense of the Con-*
10 *gress that all levels of government should adopt NIMS, and*
11 *that the regular use of and training in NIMS by States,*
12 *territories, tribes, and local governments should be a condi-*
13 *tion for receiving Federal preparedness assistance.*

14 **SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**
15 **STATES NORTHERN COMMAND PLANS AND**
16 **STRATEGIES.**

17 *It is the sense of Congress that the Secretary of Defense*
18 *should regularly assess the adequacy of United States*
19 *Northern Command's plans and strategies with a view to*
20 *ensuring that the United States Northern Command is pre-*
21 *pared to respond effectively to all military and para-*
22 *military threats within the United States.*

1 **SEC. 5134. REMOVAL OF CIVIL LIABILITY BARRIERS THAT**
2 **DISCOURAGE THE DONATION OF FIRE EQUIP-**
3 **MENT TO VOLUNTEER FIRE COMPANIES.**

4 (a) *SHORT TITLE.*—*This section may be cited as the*
5 *“Good Samaritan Volunteer Firefighter Assistance Act of*
6 *2004”.*

7 (b) *LIABILITY PROTECTION.*—*A person who donates*
8 *fire control or fire rescue equipment to a volunteer fire com-*
9 *pany shall not be liable for civil damages under any State*
10 *or Federal law for personal injuries, property damage or*
11 *loss, or death proximately caused by the equipment after*
12 *the donation.*

13 (c) *EXCEPTIONS.*—*Subsection (b) does not apply to a*
14 *person if—*

15 (1) *the person’s act or omission proximately*
16 *causing the injury, damage, loss, or death constitutes*
17 *gross negligence or intentional misconduct; or*

18 (2) *the person is the manufacturer of the fire*
19 *control or fire rescue equipment.*

20 (d) *PREEMPTION.*—*This section preempts the laws of*
21 *any State to the extent that such laws are inconsistent with*
22 *this section, except that notwithstanding subsection (c) this*
23 *section shall not preempt any State law that provides addi-*
24 *tional protection from liability for a person who donates*
25 *fire control or fire rescue equipment to a volunteer fire com-*
26 *pany.*

1 (e) *DEFINITIONS.*—*In this section:*

2 (1) *PERSON.*—*The term “person” includes any*
3 *governmental or other entity.*

4 (2) *FIRE CONTROL OR RESCUE EQUIPMENT.*—
5 *The term “fire control or fire rescue equipment” in-*
6 *cludes any fire vehicle, fire fighting tool, communica-*
7 *tions equipment, protective gear, fire hose, or breath-*
8 *ing apparatus.*

9 (3) *STATE.*—*The term “State” includes the sev-*
10 *eral States, the District of Columbia, the Common-*
11 *wealth of Puerto Rico, the Commonwealth of the*
12 *Northern Mariana Islands, American Samoa, Guam,*
13 *the Virgin Islands, any other territory or possession*
14 *of the United States, and any political subdivision of*
15 *any such State, territory, or possession.*

16 (4) *VOLUNTEER FIRE COMPANY.*—*The term “vol-*
17 *unteer fire company” means an association of indi-*
18 *viduals who provide fire protection and other emer-*
19 *gency services, where at least 30 percent of the indi-*
20 *viduals receive little or no compensation compared*
21 *with an entry level full-time paid individual in that*
22 *association or in the nearest such association with an*
23 *entry level full-time paid individual.*

24 (f) *EFFECTIVE DATE.*—*This section applies only to li-*
25 *ability for injury, damage, loss, or death caused by equip-*

1 *ment that, for purposes of subsection (b), is donated on or*
2 *after the date that is 30 days after the date of the enactment*
3 *of this Act.*

4 *(g) ATTORNEY GENERAL REVIEW.—*

5 *(1) IN GENERAL.—The Attorney General of the*
6 *United States shall conduct a State-by-State review of*
7 *the donation of firefighter equipment to volunteer fire-*
8 *fighter companies during the 5-year period ending on*
9 *the date of the enactment of this Act.*

10 *(2) REPORT.—Not later than 6 months after the*
11 *date of the enactment of this Act, the Attorney Gen-*
12 *eral of the United States shall publish and submit to*
13 *the Congress a report on the results of the review con-*
14 *ducted under paragraph (1). The report shall include,*
15 *for each State, the most effective way to fund fire-*
16 *fighter companies, whether first responder funding is*
17 *sufficient to respond to the Nation's needs, and the*
18 *best method to ensure that the equipment donated to*
19 *volunteer firefighter companies is in usable condition.*

20 **SEC. 5135. PILOT STUDY TO MOVE WARNING SYSTEMS INTO**
21 **THE MODERN DIGITAL AGE.**

22 *(a) PILOT STUDY.—The Secretary of Homeland Secu-*
23 *rity, from funds available for improving the national sys-*
24 *tem to notify the general public in the event of a terrorist*
25 *attack, and in consultation with the Attorney General and*

1 *the heads of other appropriate Federal agencies, the Na-*
2 *tional Association of State Chief Information Officers, and*
3 *other stakeholders with respect to public warning systems,*
4 *shall conduct a pilot study under which the Secretary may*
5 *issue public warnings regarding threats to homeland secu-*
6 *rity using a warning system that is similar to the AMBER*
7 *Alert communications network.*

8 *(b) REPORT.—Not later than 9 months after the date*
9 *of the enactment of this Act, the Secretary shall submit to*
10 *the Congress a report regarding the findings, conclusions,*
11 *and recommendations of the pilot study.*

Attest:

JEFF TRANDAHL,

Clerk.

By

Assistant to the Clerk.

108TH CONGRESS
2^D SESSION

S. 2845

AMENDMENT